Volume 2

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1990

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Primary Election, June 5, 1990
and General Election, November 6, 1990

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

1989–90 Regular Session
1989–90 First Extraordinary Session

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CHAPTER 191

An act to make an appropriation in augmentation of Items 9840-001-001, 9840-001-494, and 9840-001-988 of Section 2.00 of the Budget Act of 1989, relating to contingencies or emergencies, to take effect immediately, usual current expenses.

[Approved by Governor July 2, 1990. Filed with Secretary of State July 2, 1990]

I am reducing the $304,669,000 appropriation from Item 9840-001-001 contained in Section 1 of Assembly Bill No 2563 by $5,511,000

The Department of Corrections has reduced their deficiency by $6 1 million due to a freeze on equipment purchases.

The Department of Food and Agriculture, however, has an additional deficiency of $589,000 incurred as a result of the Mexican Fruit Fly The net reduction is therefore $5,511,000

With this reduction, I approve Assemby Bill No 2563

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. (a) The sum of three hundred thirty-two million four hundred forty-five thousand dollars ($332,445,000) is hereby appropriated for expenditure in the 1989–90 fiscal year in augmentation of, and for the purposes of, contingencies or emergencies as provided in Items 9840-001-001, 9840-001-494, and 9840-001-988 of Section 2.00 of the Budget Act of 1989, in accordance with the following schedule:

(1) Three hundred four million six hundred sixty-nine thousand dollars (304,669,000) from the General Fund to the Reserve for Contingencies or Emergencies in Item 9840-001-001.

(2) Fifteen million seven hundred eight thousand dollars ($15,708,000) from unallocated special funds to the Reserve for Contingencies or Emergencies in Item 9840-001-494.

(3) Twelve million sixty-eight thousand dollars ($12,068,000) from unallocated nongovernmental cost funds to the Reserve for Contingencies or Emergencies in Item 9840-001-988.

(b) The Director of Finance may withhold authorization for the expenditure of funds provided in this section until such time as, and to the extent that, preliminary estimates of potential deficiencies are verified.

SEC. 2. Notwithstanding any other provision of law, on or before June 30, 1990, the Controller shall transfer the unencumbered balances in Items 6110-106-001, 6110-119-001, 6110-161-001 of, and the unencumbered balance in excess of one hundred twenty-eight thousand dollars ($128,000) in Item 6110-224-001 of, Section 2.00 of the Budget Act of 1989 to the Proposition 98 Reserve established pursuant to Section 12.31 of the Budget Act of 1989.

SEC. 3. Notwithstanding any other provision of law, on or before June 30, 1990, the Controller shall revert to the California Environmental License Plate Fund one million five hundred

thousand dollars ($1,500,000) of the unencumbered balance of the sum appropriated pursuant to subdivision (b) of Section 2 of Chapter 304 of the Statutes of 1988.

SEC. 4. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 192

An act to add Section 6103.12 to the Government Code, and to add Sections 17980.1, 17980.2, 17980.3, 17980.4, and 17980.5 to the Health and Safety Code, relating to housing.

[Approved by Governor July 2, 1990. Filed with Secretary of State July 2, 1990]

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

SECTION 1. Section 6103.12 is added to the Government Code, to read:

6103.12. Section 6103 does not apply to any fee charged by a county clerk or county recorder, or clerk of the court, pursuant to Section 17980.1 or 17980.2 of the Health and Safety Code.

SEC. 2. Section 17980.1 is added to the Health and Safety Code, to read:

17980.1. (a) If a building is identified by a city, city and county, or county pursuant to Article 4 (commencing with Section 19160) of Chapter 2 of Part 3 of Division 13, or Section 8875.2 of the Government Code as being potentially hazardous to life in the event of an earthquake or is identified for any other reason to be hazardous to life in the event of an earthquake, an order requiring the building to be retrofitted to local building standards may be executed by the enforcement agency or its agents or contractors if all of the following conditions are satisfied:

(1) The hazardous condition is of a nature which would endanger the immediate health and safety of residents or the public in the event of an earthquake.

(2) The extent and nature of the hazardous condition is such that it could be corrected with the application of current technology.

(3) Any abatement order of the enforcement agency is not complied with or not so far complied with as the enforcement agency may regard as reasonable, within the time therein designated.

(b) If the owner does not comply with the abatement order within a reasonable time after issuance of the order, the enforcement agency may, as an alternative to any other remedy permitted under law, seek the remedy provided by this section if the court finds the owner in violation of the abatement order and finds that the abatement order was issued in order to correct a hazardous condition

which would endanger the immediate health and safety of residents or the public in the event of an earthquake.

(c) After serving notice upon the owner not less than 48 hours prior to the filing of the application in accordance with the procedures for notice specified by this subdivision, the enforcement agency, in accordance with this section, Sections 17980.1 to 17980.3, inclusive, and Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure, may thereafter apply to the superior court in the county where the property is situated by petition for an order directing the owner and any mortgagees or lienors of record to show cause why an individual or group as proposed by the enforcement agency should not be appointed as a receiver, and why the receiver should not remove or remedy the condition and obtain a lien, as provided in Section 17980.2, in favor of the enforcement agency against the property, with the lien having the priority as specified in subdivision (b) of Section 17980.2, to secure repayment of the costs incurred by the receiver in removing or remedying the condition. The application shall contain all of the following:

(1) Proof by affidavit that an abatement order of the enforcement agency has been issued and served on the owner, mortgagees, and lienors in accordance with this section, and that the notice containing the same particulars as are required in the abatement order, including the work to be done, has been filed in the office of the county recorder in which mechanic's liens affecting the property would be filed.

(2) A statement that the abatement order has not been complied with or not so far complied with as the enforcement agency may regard as reasonable within the time period therein designated.

(3) A statement that a condition which constitutes a serious earthquake hazard and is a serious threat to life, health, or safety continues to exist upon the property, and a description of the property and the factors constituting the unsafe condition.

(4) A plan describing how the receiver shall perform the required work, and how rents, issues, and profits shall be collected and distributed among the owner, mortgagee, lienor, and enforcement agency or receiver, and including an estimate as to the costs of the required work, the approximate time by which the repairs will be completed, a statement as to whether a displacement of any occupant is required, and provisions regarding assistance for displaced occupants.

(d) The order to show cause shall be returnable not less than five days after service is completed and shall provide for personal service of a copy thereof and the papers on which it is based on the owners and mortgagees of record and lienors. Alternative service may be made upon the owner by posting upon the property and thereafter mailing to the owner at the last known address, and upon the mortgagee or lienor by mailing to the address set forth in the recorded mortgage or lien and by publication in a newspaper of

general circulation in the county where the premises are located. The service shall be completed on filing proof of service thereof in the office of the county clerk.

(e) On the return of the order to show cause, the proceeding regarding that order shall have precedence over every other business of the court, unless the court finds that some other pending proceeding, having a similar statutory precedence, shall have priority. If the court finds good cause therefor, and finds that the cost of repairs, when added to any encumbrances on the building, shall not exceed the projected value of the building when repaired, then the court shall appoint a receiver named in the application or another person deemed appropriate, in accordance with this section and Section 17980.2. However, prior to the appointment of a receiver, if the owner or any mortgagee or lienor or other person having an interest in the property applies to the court to be permitted to remove or remedy the conditions, and demonstrates the ability promptly to undertake the work required, and posts security for the performance thereof within the time, and in the amount and manner deemed necessary by the court, then the court may, in lieu of appointing the receiver, issue an order permitting that person to perform the work within a time fixed by the court.

(f) If the conditions have not been satisfactorily remedied or removed within the time fixed in the abatement order, then the court shall appoint a receiver. If, after granting a court order permitting a person to perform the work, but before the time fixed by the court for the completion thereof, it appears to the enforcement agency that the person permitted to do the work is not proceeding in a timely fashion, the enforcement agency may petition the court for a hearing to determine whether a receiver should be appointed immediately. On the failure of the owner, mortgagee, lienor, or other person having an interest in the property to complete the work in accordance with the provisions of the order, the costs of the receiver thereafter appointed in removing or remedying the condition, and for other charges herein provided for, shall be reimbursed, paid, or made subject to a lien pursuant to Section 17980.2, or any combination of these.

(g) Upon the appointment of a receiver by the court, which shall include the posting of a bond by the receiver, pursuant to subdivision (b) of Section 567 of the Code of Civil Procedure, a copy of the order making the appointment, authenticated by a certificate of the clerk of the court and particularly describing the property which is subject to the receivership, shall be recorded in each county in which any portion of the land is located.

(h) In addition to the powers specifically requested by the enforcement agency for the receiver, the receiver shall be authorized to employ attorneys, accountants, contractors, architects, engineers, and other clerical and professional personnel to assist the receiver in the performance of these duties and responsibilities.

(i) Notwithstanding Section 6103 or 27383 of the Government

Code, a county clerk or county recorder, or clerk of the court may charge a fee to any party, including a public agency, for the cost, incurred pursuant to this section, of filing, recording, or authentication of documents at the request of that party.

SEC. 3. Section 17980.2 is added to the Health and Safety Code, to read:

17980.2. (a) If the enforcement agency, in accordance with Section 17980.1, shall desire that the receiver obtain a lien for costs incurred in connection therewith in favor of the enforcement agency, the enforcement agency, within five days after the service of the abatement order upon the owner, shall serve a copy of the abatement order upon the lienor and mortgagee of record personally or by registered mail, return receipt requested, at the address set forth in the recorded mortgage or lien. A notice addressed to the mortgagee and lienor shall be appended to the copy of the abatement order, stating that in the event the unsafe conditions are not removed or remedied in the manner and within the time specified in the abatement order, the enforcement agency may apply to the superior court for an order to show cause why a receiver shall not be appointed.

(b) The enforcement agency or a receiver appointed pursuant to this section and Section 17980.1 may record a lien against the real property on which the building is located for the expenses necessarily incurred in the execution of the abatement order, for work done in carrying out the abatement order, and for the costs incurred by the county recorder in recording the lien. Notwithstanding Section 6103 or 27383 of the Government Code, the county recorder may charge a fee to any party for the cost, incurred pursuant to this section, of recording the lien at the request of that party. Liens authorized by this subdivision shall specify the amount of the lien, the name of the agency or agencies on whose behalf the lien is imposed, the date of the abatement order or the order of the court which required the work to be done, the name of the receiver, if any, appointed pursuant to Section 17980.1, and the legal description assessor's parcel number, and the record owner of the real property. The lien shall be recorded in the office of the county recorder of any county in which all or any portion of the real property is located, and from the date of recording shall have the force, effect, and priority of a judgment lien. The enforcement agency may defer payment of the lien until the property is sold or the enforcement agency may require that the lien be paid in installments. The amount of the lien authorized by this subdivision shall in no event exceed the reasonable costs of repair, as determined pursuant to Section 17980.3. Nothing in this section or in Section 17980.3 shall authorize the forced sale of the property to secure payment of the judgment lien.

(c) Whenever the enforcement agency has incurred expense for which payment is due under this section, Section 17980.3, or 17980.4, the enforcement agency may institute and maintain a suit against the

owner of the building, and may recover the amount of that expense. In any case where expenditures have been made, or obligations incurred, by a receiver pursuant to Section 17980.3, and these are not paid or reimbursed from rents and income of the building, the receiver may institute and maintain a suit against the owner to recover the deficiency. Upon the awarding of a money judgment in any action authorized by this section, until the same is paid or discharged, the judgment shall be a lien like other judgments, pursuant to Chapter 2 (commencing with Section 697.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(d) Unless, within six months after actual notice, proceedings to discharge the lien are undertaken by the party against whom, or against whose premises, a lien is claimed, the filing shall, as to all persons having actual notice, become conclusive evidence that the amount claimed in the lien, with interest, is due, and is a just lien upon the premises.

(e) Where there is more than one owner, except as the owners may have otherwise mutually agreed, any owner who removes or remedies the unsafe condition shall be entitled to recover a proportionate share of the total expense of the compliance from all other owners to whom the abatement order was issued.

SEC. 4. Section 17980.3 is added to the Health and Safety Code, to read:

17980.3. (a) Any receiver appointed pursuant to this section shall have all of the powers and duties conferred by this section, and Sections 17980.1 and 17980.2, and shall have the powers and duties of a receiver appointed in an action to foreclose a mortgage on real property, as provided in Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure. The receiver, with all reasonable speed, shall remedy the unsafe condition and remove all the delinquent matters and deficiencies in the building, as specified in the abatement order. Unless otherwise ordered by the court, the receiver shall have the power to let contracts therefor or incur expenses in accordance with the provisions of local laws, ordinances, rules, or regulations applicable to contracts for public works.

(b) If the conditions of the premises and repairs thereto significantly interfere with the peaceful enjoyment or safe and sanitary use of the premises by any tenant, the receiver shall arrange for comparable temporary housing which is decent, safe, and sanitary for each tenant required to be relocated. The receiver shall pay relocation costs to each tenant as provided in Section 7262 of the Government Code. The costs shall be limited to the time that the premises are being repaired. The receiver shall mail to the owner and tenants at least 30 days prior to completion of the repairs a notice that the unit will be available for occupancy. The tenant shall have 14 days from the date the receiver's notification was mailed to notify the landlord of his or her intent to reoccupy the dwelling unit. The tenant shall have seven days to reoccupy the unit once the unit is

deemed habitable. Failure of the tenant to notify the owner and receiver of the tenant's intent to reoccupy the unit shall extinguish this right to reoccupy.

(c) The receiver shall be entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages. These fees and commissions shall be paid into any fund created pursuant to Section 17980.5. The receiver shall be liable only in the receiver's official capacity for injury to person and property by reason of conditions of the premises in a case where an owner would have been liable. The receiver shall not be liable in the receiver's personal capacity. Upon the request of the receiver, the enforcement agency or the department, or both, shall make their personnel and facilities available to the receiver for the purpose of carrying out the receiver's duties as the receiver, and the cost of these services shall be deemed a necessary expense of the receiver.

(d) The receiver shall be discharged upon rendering a full and complete accounting to the court when the condition has been removed and the cost thereof and all other costs authorized by this section have been paid, reimbursed, or made subject to a lien pursuant to subdivision (b) of Section 17980.2, or any combination of these. Upon the removal of the condition, the owner, the mortgagee, or any lienor may apply for the discharge of the receiver of all moneys not expended by the receiver for removal of the condition and all other costs authorized by this section.

SEC. 5. Section 17980.4 is added to the Health and Safety Code, to read:

17980.4. (a) Whenever the enforcement agency sues for the expenses involved in the execution of any order, it may join in the same suit and claim any civil remedy for the violation of any provisions of this chapter. Joint or several judgments may be had against one or more of the defendants in the suit, as they or any of them may be liable in respect of all or any of these claims. The expenses of executing the order, and any judgment in any abatement suit provided for in this chapter, and the several judgments that may be recovered for any of these expenses and judgments, until the same are paid or discharged, shall be a lien like other judgments, pursuant to Chapter 2 (commencing with Section 697.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(b) Nothing in this section or in Sections 17980.1 to 17980.3, inclusive, shall be deemed to relieve the owner of any civil or criminal liability incurred or any duty imposed by reason of acts or omissions of the owner prior to the appointment of any receiver, nor shall anything contained to those sections be construed to suspend during the receivership any obligation of the owner for the payment of taxes or operating and maintenance expenses of the dwelling or any obligation of the owner or any other person for the payment of mortgages or liens. The remedies pursuant to this section or Sections 17980.1 to 17980.3, inclusive, shall be in addition to any other remedies provided by law.

SEC. 6. Section 17980.5 is added to the Health and Safety Code, to read:

17980.5. The local enforcement agency may establish and maintain a special fund for the purpose of implementing Sections 17980.1 to 17980.4, inclusive.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 193

An act to amend Section 1722 of the Civil Code, relating to contracts.

[Approved by Governor July 5, 1990. Filed with Secretary of State July 5, 1990.]

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

SECTION 1. Section 1722 of the Civil Code is amended to read:

1722. (a) (1) Whenever a contract is entered into between a consumer and a retailer with 25 or more employees relating to the sale of merchandise which is to be delivered by the retailer or the retailer's agent to the consumer at a later date, and the parties have agreed that the presence of the consumer is required at the time of delivery, the retailer shall specify either at the time of the sale or at a later date a four-hour time period within which any delivery shall be made. Once a delivery time is established, the retailer or the retailer's agent shall deliver the merchandise to the consumer within that four-hour period.

(2) If the merchandise is not delivered within the specified four-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of the retailer, the consumer may bring an action in small claims court against the retailer for lost wages, expenses actually incurred, or other actual damages not exceeding a total of five hundred dollars ($500).

(3) No action shall be considered valid if the consumer was not present at the time, within the specified period, when the retailer or the retailer's agent attempted to make the delivery or made a diligent attempt to notify the consumer of its inability to do so because of unforeseen or unavoidable occurrences beyond its control.

(4) In any small claims action, logs and other business records

maintained by the retailer or the retailer's agent in the ordinary course of business shall be prima facie evidence of the time period specified for the delivery and of the time when the merchandise was delivered, or of a diligent attempt by the retailer or the retailer's agent to notify the consumer of delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made to notify the consumer of the delay caused by unforeseen or unavoidable occurrences beyond the control of the retailer or the retailer's agent, or the retailer or the retailer's agent was unable to notify the consumer of the delay because of the consumer's absence or unavailability during the four-hour period, and, in either instance, the retailer or the retailer's agent makes the delivery within two hours of a newly agreed upon time or, if the consumer unreasonably declines to arrange a new delivery time.

(b) (1) Cable television companies shall inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair, or by notifying their subscribers by mail three times a year of this service. Whenever a subscriber contracts with a cable television company for a service connection or repair, and the parties have agreed that the presence of the subscriber is required, the cable company shall specify the time for the commencement of the service connection or repair within the four-hour period if the subscriber requests.

(2) If the service connection or repair is not commenced within the specified four-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of the company, the subscriber may bring an action in small claims court against the company for lost wages, expenses actually incurred or other actual damages not exceeding a total of five hundred dollars ($500).

(3) No action shall be considered valid if the subscriber was not present at the time, within the specified period, that the company attempted to make the service connection or repair.

(4) In any small claims action, logs and other business records maintained by the company or its agents in the ordinary course of business shall be prima facie evidence of the time period specified for the commencement of the service connection or repair and the time that the company or its agents attempted to make the service connection or repair, or of a diligent attempt by the company to notify the subscriber of a delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made to notify the subscriber of delay caused by unforeseen or unavoidable occurrences beyond the control of the company or its agents, or the company or its agents was unable to notify the subscriber because of the subscriber's absence or unavailability

during the four-hour period, and, in either instance, the cable television company commenced service or repairs within a newly agreed upon two-hour period.

(6) No action shall be considered valid against a cable television company pursuant to this section when the franchise or any local ordinance provides the subscriber with a remedy for a delay in commencement of a service connection or repair and the subscriber has elected to pursue that remedy. If a subscriber elects to pursue his or her remedies against a cable television company under this section, the franchising or state or local licensing authority shall be barred from imposing any fine, penalty, or other sanction against the company, arising out of the same incident.

(c) (1) Utilities shall inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair, or by notifying the subscriber by mail three times a year of this service. Whenever a subscriber contracts with the utility for a service connection or repair, and the parties have agreed that the presence of the subscriber is required, the utility shall specify the time for the commencement of the service connection or repair within the four-hour period if the subscriber requests.

(2) If the service connection or repair is not commenced within the specified four-hour period, except for delays caused by unforeseen or unavoidable circumstances beyond the control of the utility, the subscriber may bring an action in small claims court against the utility for lost wages, expenses actually incurred, or other actual damages not exceeding a total of five hundred dollars ($500).

(3) No action shall be considered valid if the subscriber was not present at the time, within the specified period, that the utility attempted to make the service connection or repair.

(4) In any small claims action, logs and other business records maintained by the utility or its agents in the ordinary course of business shall be prima facie evidence of the time period specified for the commencement of the service connection or repair and of the time that the utility attempted to make the service connection or repair, or of a diligent attempt by a utility to notify the subscriber of delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made by the utility to notify the subscriber of delay caused by unforeseen or unavoidable occurrences beyond the control of the utility, and the utility commenced service within a newly agreed upon two-hour period.

(d) Any provision of a delivery or service contract in which the consumer or subscriber agrees to modify or waive any of the rights afforded by this section shall be void as contrary to public policy.

CHAPTER 194

An act relating to contingencies or emergencies, and making an appropriation therefor, to take effect immediately, usual current expenses.

[Approved by Governor July 9, 1990 Filed with Secretary of State July 9, 1990]

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

SECTION 1. (a) Notwithstanding any other provision of law, the sum of ninety-five million twenty-three thousand dollars ($95,023,000) is hereby appropriated from the General Fund to the State Director of Health Services for expenditure in the 1990–91 fiscal year for the funding of Medi-Cal benefits and services for claims submitted during the 1989–90 fiscal year.

(b) Notwithstanding any other provision of law, any and all federal funds which may legally be expended in the 1990–91 fiscal year for the funding of Medi-Cal benefits and services for claims submitted during the 1989–90 fiscal year are hereby appropriated from the Federal Trust Fund to the State Director of Health Services for that purpose.

SEC. 2. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 195

An act to amend Sections 1203, 1204, 1206, and 1282 of, and to add Sections 1244, 1244.1, 1244.3, 1244.4, 1275, and 1301.1 to, the Business and Professions Code, relating to clinical laboratories, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1990 Filed with Secretary of State July 9, 1990]

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

SECTION 1. Section 1203 of the Business and Professions Code is amended to read:

1203. As used in this chapter, "clinical laboratory bioanalyst" means any person licensed under this chapter to engage in clinical laboratory practice and direction of a clinical laboratory.

SEC. 2. Section 1204 of the Business and Professions Code is amended to read:

1204. As used in this chapter, "clinical laboratory technologist" means any person other than a licensed clinical laboratory bioanalyst

or trainee who is licensed under this chapter to engage in clinical laboratory practice under the direction of a person authorized to direct a laboratory under this chapter.

SEC. 3. Section 1206 of the Business and Professions Code is amended to read:

1206. (a) For the purposes of this chapter the following definitions are applicable:

(1) "Clinical laboratory sciences" means those scientific disciplines which relate to the examination (which includes detection, identification, measurement, or enumeration of any particular entity or substance) of biological specimens and the evaluation, correlation, monitoring, and reporting of the results of an examination of biological specimens, for the purpose of obtaining scientific data which may be used as an aid to ascertain the presence, progress, and source of a disease or physiological condition in a human being or used as an aid in the prevention, prognosis, monitoring, or treatment of a physiological or pathological condition in a human being. For purposes of this section, a "biological specimen" means any material which is derived from the human body upon which examinations are performed for the purpose of providing information for the diagnosis, prevention, or treatment of disease, physiological or pathological condition, or for the performance of nondiagnostic tests for assessing the health of an individual.

(2) "Clinical laboratory practice" means the application of clinical laboratory sciences or the use of any means which applies the clinical laboratory sciences within or outside of a licensed clinical laboratory. Clinical laboratory practice includes consultation, advisory and other activities inherent to the profession.

(3) "Clinical laboratory" means any place used, or any establishment or institution organized or operated, for the practical application of the clinical laboratory sciences. That application may include any means which applies the clinical laboratory sciences.

(b) Nothing in this chapter shall restrict, limit, or prevent any person licensed to provide health care services under the laws of this state, including, but not limited to, licensed physicians and surgeons, and registered nurses, from practicing the profession or occupation for which he or she is licensed.

(c) Nothing in this chapter shall restrict, limit, or prevent the performance of toxicological analyses of biological specimens for legal, regulatory, safety, or employment purposes by laboratories which are otherwise appropriately licensed to perform those procedures.

SEC. 4. Section 1244 is added to the Business and Professions Code, to read:

1244. (a) Nothing in this chapter shall restrict, limit, or prevent a program of nondiagnostic general health assessment provided that:

(1) The purpose of the program is to refer individuals to licensed sources of care as indicated.

(2) The program utilizes only those devices which comply with all of the following:

(A) Meet all applicable state and federal performance standards pursuant to Section 26605 of the Health and Safety Code.

(B) Are not adulterated as specified in Article 2 (commencing with Section 26610) of Chapter 6 of Division 21 of the Health and Safety Code.

(C) Are not misbranded as specified in Article 3 (commencing with Section 26630) of Chapter 6 of Division 21 of the Health and Safety Code.

(D) Are not new devices unless they meet the requirements of Section 26670 of the Health and Safety Code.

(3) The program maintains a supervisory committee consisting of, at a minimum, a licensed physician and surgeon and a laboratory technologist licensed pursuant to this chapter.

(4) The supervisory committee for the program adopts written protocols which shall be followed in the program and which shall contain all of the following:

(A) Provision of written information to individuals to be assessed which shall include, but not be limited to, the following:

(i) The potential risks and benefits of assessment procedures to be performed in the program.

(ii) The limitations, including the nondiagnostic nature, of assessment examinations of biological specimens performed in the program.

(iii) Information regarding the risk factors or markers targeted by the program.

(iv) The need for followup with licensed sources of care for confirmation, diagnosis, and treatment as appropriate.

(B) Proper use of each device utilized in the program including the operation of analyzers, maintenance of equipment and supplies, and performance of quality control procedures including the determination of both accuracy and reproducibility of measurements in accordance with instructions provided by the manufacturer of the assessment device used.

(C) Proper procedures to be employed when drawing blood, if blood specimens are to be obtained.

(D) Proper procedures to be employed in handling and disposing of all biological specimens to be obtained and material contaminated by those biological specimens.

(E) Proper procedures to be employed in response to fainting, excessive bleeding, or other medical emergencies.

(F) Reporting of assessment results to the individual being assessed.

(G) Referral and followup to licensed sources of care as indicated.

The written protocols adopted by the supervisory committee shall be maintained for at least one year following completion of the assessment program during which period they shall be subject to review by department personnel and the local health officer or his

or her designee, including the public health laboratory director.

(b) If skin puncture to obtain a blood specimen is to be performed in a program of nondiagnostic general health assessment, the individual performing the skin puncture shall be either:

(1) Authorized to perform skin puncture under this chapter.

(2) Any person who possesses a statement signed by a licensed physician and surgeon which attests that the named person has received adequate training in the proper procedure to be employed in skin puncture.

(c) A program of nondiagnostic general health assessment which fails to meet the requirements set forth in subdivisions (a) and (b) shall not operate.

(d) For purposes of this section, "skin puncture" means the collection of a blood specimen by the finger prick method only and does not include venipuncture, arterial puncture, or any other procedure for obtaining a blood specimen.

(e) Nothing in this chapter shall be interpreted as prohibiting a licensed clinical laboratory from operating a program of nondiagnostic general health assessment provided that the clinical laboratory complies with the requirements of this section.

SEC. 5. Section 1244.1 is added to the Business and Professions Code, to read:

1244.1. Thirty days prior to operating a program of nondiagnostic general health assessment, the entity or person operating that program shall file the following documentation with the local health officer in each county in which the program shall operate:

(a) The location of the program, the type and kind of nondiagnostic general health assessments being conducted, the dates and times of operation of programs, and evidence that the program shall be operated in compliance with Section 1244.

(b) The local health officer shall be notified in writing of any changes to occur in locations, dates, or times indicated in the documentation required in subdivision (a). The local health officer shall be notified of any changes at least 24 hours prior to the program operating at the different locations, dates, or times.

SEC. 6. Section 1244.3 is added to the Business and Professions Code, to read:

1244.3. Responsibility for enforcement of Sections 1244 and 1244 1 shall be with the local health officer or his or her authorized designee, including public health laboratory directors. Nothing in this section shall prevent the department from using any necessary enforcement actions for the protection of the public health and safety.

SEC. 7. Section 1244.4 is added to the Business and Professions Code, to read:

1244.4. Any fee for the filing of documentation and related enforcement activities pursuant to Section 1244, 1244.1, and 1244.3 shall be determined by the local enforcement agency and shall not exceed one hundred dollars ($100) except that those fees shall be

adjusted annually by any annual increase in the California Consumer Price Index as determined pursuant to Section 2212 of the Revenue and Taxation Code. All moneys collected as fees pursuant to this section shall be deposited in the appropriate city, county, or city and county treasury and shall only be expended in carrying out Sections 1244, 1244.1, and 1244.3.

SEC. 8. Section 1275 is added to the Business and Professions Code, to read:

1275. The department shall develop and implement regulations for continuing education for persons licensed pursuant to this chapter on or before January 1, 1992, after consulting with the multidisciplinary committee established pursuant to Section 1228, and other appropriate organizations. On and after January 1, 1994, the department shall require not more than 12 hours of continuing education annually as a condition for renewal of a license issued under this chapter. The department may establish a fee for the implementation of this section, the total fees collected not to exceed the total costs to the program for the implementation of this requirement.

SEC. 9. Section 1282 of the Business and Professions Code is amended to read:

1282. It is unlawful for any person to engage in clinical laboratory practice in a clinical laboratory unless he or she is a duly licensed physician and surgeon or is duly authorized to do so under this chapter.

SEC. 10. Section 1301.1 is added to the Business and Professions Code, to read:

1301.1. Notwithstanding any other provision of this chapter, the department may establish such license periods and renewal dates for all licenses issued under this chapter in a manner as to best distribute the license renewal process throughout a given year, or longer period, if necessary, to permit the most efficient and economical use of the department's personnel and equipment. To the extent practical, provision shall be made for the proration or other fee adjustments in a manner that no licensee shall be required to pay a greater or lesser fee than he or she would have been required to pay if the change in license periods or renewal dates had not occurred.

SEC. 11. The Legislature finds that there are approximately 25,000 persons licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code, who perform critical medical laboratory testing in such areas as blood transfusion services, AIDS (acquired immune deficiency syndrome), and drug abuse. The development of new procedures necessitates licensees to continually update their knowledge.

The Legislature further finds that there is considerable legislative concern on both the national and state levels that the public receive quality laboratory tests. Several states require continuing education as a condition for relicensure.

The Legislature, therefore, finds and declares that mandatory

continuing education in California should be a requirement for the renewal or licenses issued under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

SEC. 12. 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. 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 other provisions of this act.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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:

Lack of oversight and consistent regulation present a tragic health concern which must be alleviated as quickly as possible.

CHAPTER 196

An act to amend Section 805 of the Business and Professions Code, and to amend Section 1157 of the Evidence Code, relating to healing arts.

[Approved by Governor July 9, 1990. Filed with Secretary of State July 10, 1990]

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

SECTION 1. Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

(1) "Peer review body" includes:

(A) A medical or professional staff of any licensed health care facility licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code, of a designated postsurgical recovery care demonstration project authorized under Section 1250.9 of the Health and Safety Code, or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(B) A health care service plan registered under Chapter 2.2

(commencing with Section 1340) of Division 2 of the Health and Safety Code or a nonprofit hospital service plan regulated under Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(C) Any medical, psychological, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(D) Any entity consisting of or employing more than 25 licentiates of the same class.

(2) "Licentiate" means a physician and surgeon, podiatrist, clinical psychologist, or dentist.

(3) "Agency" means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) "Denial or termination of staff privileges, membership, or employment" includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, when the action is based on medical disciplinary cause or reason.

(6) "Medical disciplinary cause or reason" means that aspect of a licentiate's competence or professional conduct which is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) "805 report" means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any health care facility shall file an 805 report with the relevant agency whenever any of the following actions are taken as a result of a determination of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

In addition to the duty to report as set forth in paragraphs (1), (2)

and (3), the peer review body also has a duty to report under this section a licentiate's resignation or leave of absence from membership, staff, or employment following notice of an impending investigation based on information indicating medical disciplinary cause or reason.

The 805 report shall be filed within 30 days after the effective date of the denial, termination, restriction, resignation, or leave of absence or after the exhaustion of administrative procedures, without regard to any filing for judicial review.

An 805 report shall also be filed within 30 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report.

The information to be reported in an 805 report shall include the name of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

In those instances where another peer review body is required to file an 805 report, a health care service plan or nonprofit hospital service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason.

(c) The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976. The Board of Medical Quality Assurance, the Board of Osteopathic Examiners, and the Board of Dental Examiners shall disclose reports as required by Section 805.5.

An 805 report shall be maintained by an agency for dissemination purposes for a period of three years after receipt.

(d) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(e) Failure to make a report pursuant to this section is a misdemeanor punishable by a fine of not less than two hundred dollars ($200) nor more than one thousand two hundred dollars ($1,200).

(f) A peer review body described in subparagraph (D) of paragraph (1) of subdivision (a) shall establish a committee for the purpose of reviewing the quality of professional care provided by members or employees of that body.

SEC. 2. Section 1157 of the Evidence Code is amended to read:

1157. (a) Neither the proceedings nor the records of organized committees of medical, medical-dental, podiatric, registered dietitian, psychological, or veterinary staffs in hospitals, or of a peer review body, as defined in Section 805 of the Business and Professions Code, having the responsibility of evaluation and improvement of the quality of care rendered in the hospital, or for that peer review body, or medical or dental review or dental hygienist review or chiropractic review or podiatric review or registered dietitian review or veterinary review committees of local medical, dental, dental hygienist, podiatric, dietetic, veterinary, or chiropractic societies, or psychological review committees of state or local psychological associations or societies having the responsibility of evaluation and improvement of the quality of care, shall be subject to discovery.

(b) Except as hereinafter provided, no person in attendance at a meeting of any of those committees shall be required to testify as to what transpired at that meeting.

(c) The prohibition relating to discovery or testimony does not apply to the statements made by any person in attendance at a meeting of any of those committees who is a party to an action or proceeding the subject matter of which was reviewed at that meeting, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

(d) The prohibitions in this section do not apply to medical, dental, dental hygienist, podiatric, dietetic, psychological, veterinary, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any of those committees if any person serves upon the committee when his or her own conduct or practice is being reviewed.

(e) The amendments made to this section by Chapter 1081 of the Statutes of 1983, or at the 1985 portion of the 1985–86 Regular Session of the Legislature, or at the 1990 portion of the 1989–90 Regular Session of the Legislature, do not exclude the discovery or use of relevant evidence in a criminal action.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become

operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 197

An act to add Section 7532.5 to the Public Utilities Code, relating to railroads.

[Approved by Governor July 9, 1990 Filed with Secretary of State July 10, 1990]

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

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

(a) The abandonment or discontinuance of intermodal rail freight service to communities has the potential to disrupt the economy of those areas. The degree of economic disruption is such that local communities and shippers who utilize rail facilities in those communities need advance notice of a proposed abandonment or discontinuance, so that they may respond appropriately.

(b) The abandonment or discontinuance of intermodal rail freight service may have a significant impact on the environment, including the degradation of air quality.

(c) The abandonment or discontinuance of intermodal rail freight service may have significant consequences for the energy policy of the State of California.

SEC. 2. Section 7532.5 is added to the Public Utilities Code, to read:

7532.5. (a) Every railroad corporation that intends to abandon, or discontinue service on, any spur, industrial, team, switching, or side track providing intermodal service to any community or shipper shall file an application with the commission and furnish notice of its intent to the affected community and shippers at least 90 days prior to the filing of the application.

(b) If the abandonment of, or discontinuance of service on, any spur, industrial, team, switching, or side track has been protested in writing by any affected shipper or community, and the protest makes a prima facie showing that the abandonment or discontinuance of service will have a substantial adverse impact on the affected community or on any affected shipper, the commission shall hold a public hearing in the affected area prior to authorizing the abandonment of, or discontinuance of service on, any spur, industrial, team, switching, or side track used by a railroad corporation to provide intermodal service.

(c) Prior to authorizing the abandonment of, or discontinuance of service on, any spur, industrial, team, switching, or side track used by a railroad corporation to provide intermodal service, the

commission shall find all of the following:

(1) The degree to which the facility in question is profitable.

(2) Whether that abandonment or discontinuance will have an adverse impact on the environment.

(3) Whether that abandonment or discontinuance will have an adverse impact on the affected community or shippers. In making this determination, the commission may take into account the availability of alternative transportation services.

CHAPTER 198

An act to amend Sections 9, 61, and 63 of Chapter 375 of the Statutes of 1986, relating to the Coast Life Support District.

[Approved by Governor July 9, 1990 Filed with Secretary of State July 10, 1990.]

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

SECTION 1. Section 9 of Chapter 375 of the Statutes of 1986 is amended to read:

Sec. 9. (a) Except as provided in subdivisions (b) and (c), following the formation of the district, the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) shall govern any change of organization.

(b) No single change of organization which includes annexation of territory to, or detachment of territory from, the district shall include territory in both Mendocino and Sonoma Counties.

(c) "Principal county" pursuant to Section 56066 of the Government Code shall be Mendocino County for actions which affect territory which is located in Mendocino County and shall be Sonoma County for actions which affect territory which is located in Sonoma County.

SEC. 2. Section 61 of Chapter 375 of the Statutes of 1986 is amended to read:

Sec. 61. (a) Except as otherwise provided in this section, the board of directors shall let any contract involving an expenditure of more than ten thousand dollars ($10,000) for work to be done or for materials and supplies to be furnished, sold, or issued to the district, to the lowest responsible bidder who shall give such security as the board requires, or else reject all bids.

(b) 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 the contract was made after compliance with bidding requirements, and if each individual change order does not total more than 5 percent of the total contract for the purchase of materials or supplies or more than 5 percent of the annual cost of

multiyear contracts for the purchase of services.

(c) Nothing in this section shall prevent the district 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 the organization on behalf of the district which is a member of the organization.

SEC. 3. Section 63 of Chapter 375 of the Statutes of 1986 is amended to read:

Sec. 63. The board of directors may, without following the bidding provisions in Section 61, let contracts for work to be done or for materials, equipment, and supplies to be furnished, sold, or leased to the district, upon written finding by the board of directors that an emergency exists warranting such expenditures due to fire, flood, storm, epidemic, failure of a contractor to perform, accident, or other situation and is necessary to protect the public health, safety, welfare, or property.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 199

An act to add Chapter 3.5 (commencing with Section 7930) to Division 4 of the Public Utilities Code, relating to telephone corporations.

[Approved by Governor July 9, 1990 Filed with Secretary of State July 10, 1990]

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

SECTION 1. Chapter 3.5 (commencing with Section 7930) is added to Division 4 of the Public Utilities Code, to read:

CHAPTER 3.5. NEW AREA CODES

7930. Whenever a telephone corporation proposes to establish a new area code, it shall do all of the following:

(a) Give written notice of its intention to establish a new area code to all affected subscribers and the Public Utilities Commission at least 24 months prior to the time the corporation proposes to commence the use of the new area code.

(b) Within six months after giving the notice required by

subdivision (a), conduct at least three public meetings in the affected geographical area to give affected subscribers an opportunity to be heard on the potential impact of the proposal, to discuss measures that may be taken to mitigate any potential disruptions, and to discuss measures that may be taken to reduce any economic hardships experienced by subscribers and customers, including subscribers and customers with directory listings.

(c) Give written notice of the specific geographic area to be included in the new area code to all affected subscribers and the Public Utilities Commission at least 15 months prior to the time the corporation proposes to commence the use of the new area code, together with the options available to a subscriber through the telephone corporation to mitigate any disruption to his or her telephone service.

7931. Whenever a telephone corporation establishes a new area code, it shall do both of the following:

(a) Provide for a transitional period of at least six months during which a telephone number in the new area code may be reached by dialing either the old area code or the new area code, if an area code is required.

(b) Subsequent to the transitional period provided in subdivision (a) and for at least the next six months, if prefix codes are available, permit callers, without charge, when the old area code is dialed, to reach a recorded announcement that will inform the caller of the new area code.

7932. The rate structure of any call originating in or made to an area code shall not change with the split of an area code into two or more area codes, regardless of the number of digits dialed.

CHAPTER 200

An act to amend Section 10237.6 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 9, 1990 Filed with Secretary of State July 10, 1990]

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

SECTION 1. Section 10237.6 of the Business and Professions Code is amended to read:

10237.6. An appraisal of each parcel of real property which relates to a transaction subject to this article shall be made by the real property securities dealer or by an independent appraiser unless the purchaser of the obligation to which the parcel relates states in writing to the broker that he will obtain his or her own appraisal. An appraisal by the dealer or his or her agent made pursuant to this section shall be kept on file for four years and a copy of the appraisal

shall be delivered to the purchaser prior to the time the purchase becomes obligated.

CHAPTER 201

An act to amend Section 77301 of the Government Code, relating to trial court funding.

[Approved by Governor July 10, 1990. Filed with Secretary of State July 10, 1990.]

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

SECTION 1. Section 77301 of the Government Code is amended to read:

77301. A county shall notify the state of its decision to opt into the system by transmitting to the Controller a resolution, agreeing without qualification or condition 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 and justice courts in the county requests state funding. However, in a county having only one superior court judge, no municipal court judge, and only one justice court judge who serves less than one-fifth time, as determined by the Judicial Council, only the superior court judge may so sign and certify for the judges of the county.

The option notification for the second half of the 1988–89 fiscal year shall be deemed effective on January 1, 1989. In subsequent years, the option notification shall become effective for the full fiscal year on the July 1 following notification, if sufficient moneys have been appropriated in the Budget Act for that fiscal year to adequately fund the program.

CHAPTER 202

An act to amend Sections 70047, 73344, 73348, 73350, 73351, 73353.2, 73355, and 73358 of, and to repeal and add Section 73353 to, the Government Code, relating to courts.

[Approved by Governor July 10, 1990 Filed with Secretary of State July 10, 1990]

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

SECTION 1. Section 70047 of the Government Code is amended to read:

70047. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a four-step salary plan as established by joint action and approval of the board of supervisors and a majority of the judges of the court with one-year increments as provided in Section 73348. The step of entry shall be step one. However, the judges of the court may appoint any such reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has the experience and qualifications to entitle that individual to a higher initial step, but in no case may the initial salary be above the third step of the salary range. Official reporters shall advance to the next higher step on the salary plan annually, upon affirmative approval of the appointing authority. The compensation of each official reporter pro tempore shall be at a rate which is the equivalent of the daily wage of the first step in the salary range for full-time official reporters in Contra Costa County for each day such reporter is on duty under order of the court.

(b) During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him or her by law, he or she shall render stenographic or clerical assistance to the judge of the court to which he or she is assigned as that judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. The adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, secretary, and clerk (experienced level), and shall be effective on the same date.

(d) In addition to any fee otherwise required, in civil trials that last longer than one judicial day, a fee equal to the per diem rate for official reporters pro tempore shall be charged per day of service to the parties, on a pro rata basis, for the services of an official reporter for the second and each succeeding day a reporter is required.

(e) In addition to any fee otherwise required, in civil cases in which the court orders a daily transcript necessitating the services of

two phonographic reporters, the party requesting the daily transcript shall pay a fee equal to the per diem rate for official reporters pro tempore for each day of service rendered by the second reporter, for the first and each successive day of trial.

(f) All parties shall deposit their pro rata share of such fees with the clerk at the beginning of the second and each succeeding day's court session.

(g) The fees shall be taxed as costs in favor of any party paying the same and to whom costs are awarded by the judgment of the court. Such fee is not subject to Section 6103.

SEC. 2. Section 73344 of the Government Code is amended to read:

73344. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive as compensation a fee which shall be the equivalent of the daily wage of the first step in the salary range for full-time official reporters in Contra Costa County as provided for by Section 73348 for each day that reporter is on duty under order of the court.

SEC. 3. Section 73348 of the Government Code is amended to read:

73348. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a four-step salary plan with one-year increments as follows:

Step 1. Forty thousand seven hundred eighty-eight dollars ($40,788).

Step 2. Forty-two thousand eight hundred sixteen dollars ($42,816).

Step 3. Forty-four thousand nine hundred sixty-four dollars ($44,964).

Step 4. Forty-seven thousand two hundred eight dollars ($47,208).

The step of entry to the above schedule shall be Step 1. However, the judges of the court may appoint a court reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has the experience and qualifications to entitle that individual to the higher initial step, and if the higher initial salary has the approval of the presiding judge of the court and the board of supervisors, but in no case may the initial salary be above the third step of the salary range. Except as provided below, official reporters shall advance to the next higher step on the salary plan annually. The compensation of each official reporter pro tempore shall be at a rate which is the equivalent of the daily wage of the first step in the salary range for full-time official reporters in Contra Costa County for each day the reporter actually is on duty under order of the court which per diem rate shall apply when an official reporter is appointed pursuant to Section 869 of the Penal Code.

Irrespective of the step of the salary range to which initially

appointed, an official court reporter shall be eligible for advancement to the next higher step in the salary range after six months service, and thereafter shall advance on the salary range based on annual reviews.

(b) During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him or her by law, he or she shall render stenographic or clerical assistance to the judge of the court to which he or she is assigned as the judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. The adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, secretary, and clerk (experienced level). Any such reporter salary adjustment shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but for official reporters of each municipal court district shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made. The compensation of each official reporter pro tempore shall remain at the rate specified in subdivision (a) for the days he or she actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

SEC. 4. Section 73350 of the Government Code is amended to read:

73350. Except as otherwise provided in this article, all employments of any municipal court now established or which may be established in Contra Costa County shall be compensated and receive other benefits in accordance with the salary ordinance of the county governing other county employments. Any subsequent change in benefits provided by the salary ordinance to employees of the county shall apply equally to employees of the municipal courts and shall have the same effective date. These benefits may also be retroactively applied. References hereafter to range allocation and salary steps apply to the basic salary schedule set forth in Section 73352.

Within-range step increases shall be granted only upon the affirmative recommendation of the appointing authority.

Overtime payments must bear the same approval as within-range step increases.

Clerk-administrators who have been retitled district court managers shall receive all management benefits allocated to the former class, including car allowance.

SEC. 5. Section 73351 of the Government Code is amended to read:

73351. There are the following classes of positions into which each of the positions of the municipal courts shall be assigned as

prescribed in the section pertaining to each court:

(a) Deputy clerk beginning level, which shall include all municipal court employments assigned routine clerical tasks under continuous immediate supervision.

(b) Deputy clerk-data entry operator I, which shall include all municipal court employments at the entry level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(c) Deputy clerk-experienced level, which shall include all municipal court employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and for which supervision is available on a periodic basis only.

(d) Deputy clerk-data entry operator II, which shall include all municipal court employments at the experienced working level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(e) Deputy clerk-senior level, which shall include all municipal court employments assigned complex clerical work involving responsibility for the establishment, maintenance, calendaring, issuance of process, and updating of case records using manual and automated systems.

(f) Deputy clerk-specialist level, which shall include all municipal court employments assigned clerical duties of a complex administrative nature, requiring exercise of initiative and discretion in work organization, methods, and priorities and which may include lead direction of a work section.

(g) Deputy clerk-courtroom clerk, which shall include all municipal court employments assigned clerical duties involving responsibility for keeping the minutes of court proceedings and the processing and maintenance of a variety of documents and records.

(h) Deputy clerk-division supervisor, which shall include all municipal court employments assigned responsibility for planning, organizing, and directing the clerical activities of a division or branch office in a municipal court including the supervision of clerical staff.

(i) Court operations coordinator, which shall include implementation of the calendar management and trial court delay reduction program, as directed by the judges, supervisory and management duties associated with the calendar management and trial court delay reduction program, and being responsible for court operations in the absence of the district court manager. Chief deputy clerks holding such position on January 1, 1988, shall be retitled court operations coordinator-A.

(j) District court manager, which shall include any municipal court position charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties. Clerk-administrators holding such position on January 1, 1989, shall be retitled district court manager A or B (Schedule A in a court with five to seven judges, inclusive; Schedule B in a court with two to four

judges, inclusive). Whenever the single district court manager A position vacates, the salary shall be downgraded to that currently paid to district court manager B. Whenever a district court manager B position vacates, the salary shall be downgraded to that currently paid to district court manager C (in a court with two to four judges, inclusive).

(k) Court commissioner, which shall include all municipal court employments who exercise the same powers and duties of judges of the court with respect to traffic and small claims matters.

(*l*) Executive secretary, which shall be assigned to serve as the confidential secretary to the county municipal court administrator.

(m) Deputy clerk-senior data entry operator, which shall include all municipal court employments assigned to complex data entry activities of a varied nature. Positions of this class may assign and review the work of several deputy clerks-data entry operator I or II.

(n) County municipal court administrator, which shall be responsible for the overall administration of all municipal court judicial districts in the county.

(o) Assistant county municipal court administrator, which shall be responsible for assisting in the overall administration of all municipal court judicial districts in the county and may act for the county municipal court administrator in his or her absence.

(p) Municipal court systems manager, which shall be responsible for managing the development, implementation, and enhancement of court systems.

(q) Municipal court fiscal officer, which shall be responsible for planning, reviewing, and coordinating fiscal and accounting activities of the county's municipal courts.

(r) Municipal court training officer, which shall be responsible for planning, reviewing, and coordinating training and educational activities of the county's municipal courts, and related work as required.

(s) Municipal court management analyst, which shall be responsible under general direction for planning, developing, and implementing projects and assignments for the county's municipal courts, and related work as required.

The board of supervisors may create a new class or classes by specifying the number of positions for each new class and the compensation therefor, provided that the new class or classes shall be effective only until January 1 of the second year following the calendar year in which the classes are created.

SEC. 6. Section 73353 of the Government Code is repealed.

SEC. 7. Section 73353 is added to the Government Code, to read:

73353. Classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

Class Title	Salary Schedule	Pay Level
Deputy clerk-beginning level	C5-1114	1384-1682
Deputy clerk-experienced level	C5-1259	1600-1945
Deputy clerk-senior level	XB-1426	1800-2298
Deputy clerk-specialist level	XC-1498	1936-2469
Deputy clerk-DEO I	C5-1212	1526-1855
Deputy clerk-DEO II	C5-1309	1682-2044
Deputy clerk-senior DEO	C5-1382	1809-2199
Deputy clerk-courtroom clerk	C5-1662	2393-2909
Deputy clerk-division supervisor	TM-1593	2467-3157
Court operations coordinator-B	TM-1765	2929-3750
Court operations coordinator-A	TM-1862	3227-4131
District court manager-A	C5-2293	4497-5466
District court manager-B	C5-2183	4029-4897
District court manager-C	TM-1911	3389-4339
Executive secretary	C3-1670	2660-2933
Municipal court training officer	C5-1884	2988-3632
Municipal court management analyst	C5-1958	3217-3911
Municipal court systems manager	C5-2027	3447-4190
Municipal court fiscal officer	C5-2025	3440-4182
Assistant county municipal court administrator	TM-2082	4021-5147
County municipal court administrator	C1-2454	6420 F

SEC. 8. Section 73353.2 of the Government Code is amended to read:

73353.2. (a) The appointing authority for the classes of division supervisor, court operations coordinators A and B, and district court manager C may, based upon an evaluation of work performance, award up to two 2½ percent steps (total of 5 percent maximum) salary advancement for outstanding performance by the employee.

(b) The appointing authority for the positions of county municipal court administrator and assistant county municipal court administrator may, based upon an evaluation of work performance, award up to two 2½ percent additional steps (total of 5 percent maximum) for outstanding performance by the employee.

SEC. 9. Section 73355 of the Government Code is amended to read:

73355. There shall be one county municipal court administrator for Contra Costa County who shall serve as the clerk of the court for each judicial district and shall be appointed by a majority of the municipal court judges of Contra Costa County. Except as provided in Sections 73348 and 73356, the county municipal court administrator shall appoint all other employments in the municipal court offices of the judicial districts in Contra Costa County.

SEC. 10. Section 73358 of the Government Code is amended to

read:

73358. The total number of positions authorized for operation of municipal courts in Contra Costa County is as follows:

Class Title	Number of Positions
Deputy clerk-(deep class), including beginning, experienced, senior, and specialist levels	230
Deputy clerk-DEO I or II	26
Deputy clerk-senior DEO	4
Deputy clerk-courtroom clerk	18
Deputy clerk-division supervisor	15
Court operations coordinator B or A	4
District court manager-A	1
District court manager-B	2
District court manager-C	1
Executive secretary	1
Municipal court training officer	1
Municipal court management analyst	1
Municipal court systems manager	1
Municipal court fiscal officer	1
Assistant county municipal court administrator	1
County municipal court administrator	1

SEC. 11. 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 203

An act to amend Section 40203.5 of the Vehicle Code, relating to parking offenses.

[Approved by Governor July 10, 1990 Filed with Secretary of State July 10, 1990.]

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

SECTION 1. Section 40203.5 of the Vehicle Code is amended to read:

40203.5. The bail, penalties, and surcharges for parking violations under this article shall be established by a court pursuant to Section 1269b of the Penal Code and Chapter 12 (commencing with Section

76000) of Title 8 of the Government Code.

CHAPTER 204

An act to amend Section 411.35 of the Code of Civil Procedure, relating to liability.

[Approved by Governor July 10, 1990. Filed with Secretary of State July 10, 1990]

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

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

411.35. (a) In every action, including a cross-complaint for damages or indemnity, arising out of the professional negligence of a person holding a valid architect's certificate issued pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, or of a person holding a valid registration as a professional engineer issued pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or a person holding a valid land surveyor's license issued pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code on or before the date of service of the complaint on any defendant, the plaintiff's attorney shall file the certificate specified by subdivision (b).

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

(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one architect, professional engineer, or land surveyor who is licensed to practice and practices in this state or any other state, or who teaches at an accredited college or university and is licensed to practice in this state or any other state, in the same discipline as the defendant or cross-defendant and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of such review and consultation that there is reasonable and meritorious cause for the filing of such action. The person consulted may not be a party to the litigation.

(2) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificate required by paragraph (1) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificate required by paragraph (1) shall be filed within 60 days after filing the complaint.

(3) That the attorney was unable to obtain the consultation

required by paragraph (1) because the attorney had made three separate good faith attempts with three separate architects, professional engineers, or land surveyors to obtain such consultation and none of those contacted would agree to such a consultation.

(c) Where a certificate is required pursuant to this section, only one certificate shall be filed, notwithstanding that multiple defendants have been named in the complaint or may be named at a later time.

(d) Where the attorney intends to rely solely on the doctrine of "res ipsa loquitur," as defined in Section 646 of the Evidence Code, or exclusively on a failure to inform of the consequences of a procedure, or both, this section shall be inapplicable. The attorney shall certify upon filing of the complaint that the attorney is solely relying on the doctrines of "res ipsa loquitur" or failure to inform of the consequences of a procedure or both, and for that reason is not filing a certificate required by this section.

(e) For purposes of this section, and subject to Section 912 of the Evidence Code, an attorney who submits a certificate as required by paragraph (1) or (2) of subdivision (b) has a privilege to refuse to disclose the identity of the architect, professional engineer, or land surveyor consulted and the contents of the consultation. The privilege shall also be held by the architect, professional engineer, or land surveyor so consulted. If, however, the attorney makes a claim under paragraph (3) of subdivision (b) that he or she was unable to obtain the required consultation with the architect, professional engineer, or land surveyor, the court may require the attorney to divulge the names of architects, professional engineers, or land surveyors refusing the consultation.

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

(g) The failure to file a certificate in accordance with this section shall be grounds for a demurrer pursuant to Section 430.10 or a motion to strike pursuant to Section 435.

(h) Upon the favorable conclusion of the litigation with respect to any party for whom a certificate of merit was filed or for whom a certificate of merit should have been filed pursuant to this section, the trial court may, upon the motion of a party or upon the court's own motion, verify compliance with this section, by requiring the attorney for the plaintiff or cross-complainant who was required by subdivision (b) to execute the certificate to reveal the name, address, and telephone number of the person or persons consulted with pursuant to subdivision (b) that were relied upon by the attorney in preparation of the certificate of merit. The name, address, and telephone number shall be disclosed to the trial judge in an in-camera proceeding at which the moving party shall not be

present. If the trial judge finds there has been a failure to comply with this section, the court may order a party, a party's attorney, or both, to pay any reasonable expenses, including attorney's fees, incurred by another party as a result of the failure to comply with this section.

This section shall remain in effect only until January 1, 1992, and as of that date is repealed.

(i) For purposes of this section, "action" includes a complaint or cross-complaint for equitable indemnity arising out of the rendition of professional services whether or not the complaint or cross-complaint specifically asserts or utilizes the terms "professional negligence" or "negligence."

CHAPTER 205

An act to add Section 31641.20 to the Government Code, relating to county employees retirement.

[Approved by Governor July 10, 1990 Filed with Secretary of State July 10, 1990]

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

SECTION 1. Section 31641.20 is added to the Government Code, to read:

31641.20. Any member of the retirement system who elects pursuant to Section 31641.1 to make contributions and receive credit as service for time for which he or she claims credit because of public service shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump-sum payment or by installment payments over a period not to exceed five years, an amount equal to the sum of:

(a) Twice the contributions he or she would have made to the retirement fund if he or she had been a member during the same length of time as that for which he or she has elected to receive credit as service, computed by applying the rate of contribution at the time of the election to the monthly compensation earnable by him or her at the time of the election pursuant to Section 31641.1, multiplied by the number of months for which he or she has elected to receive credit for county service, including time, if any, prior to the establishment of the system, and which will constitute current service under this system.

(b) The "regular interest" which would have accrued to the member contributions if they had been made on the date used to determine on what earnable compensation contributions pursuant to this section shall be based, from that date until the completion of payment of those contributions, computed at the current interest rate.

(c) The governing body by a four-fifths vote may provide that it shall make on behalf of officers and employees eligible to receive credit for prior service under this chapter, and who so elect prior to filing an application for retirement, part of the contributions specified in paragraphs (a) and (b) of this section. The contributions made by a governmental agency pursuant to this section shall be available only for purposes of retirement for service or for disability and a member resigning from county service shall be entitled to withdraw only that portion of his or her accumulated contributions made by him or her.

(d) This section shall only apply in counties of the third class, as established by Sections 28020 and 28024, as amended by Chapter 1204 of the Statutes of 1971, but it shall not apply in those counties unless and until it is adopted by a majority vote of the board of supervisors.

CHAPTER 206

An act to amend Section 25503.26 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 1990 Filed with Secretary of State July 10, 1990]

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

SECTION 1. Section 25503.26 of the Business and Professions Code is amended to read:

25503.26. (a) Notwithstanding any other provision of this chapter, the holder of a beer manufacturer's or winegrower's license may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, or is the lessee, or is a wholly owned subsidiary of the lessee, of an arena with a fixed seating capacity in excess of 10,000 seats, at least 60 percent of the use of which is for horseracing events, and which is located within the Los Angeles County, Alameda County, or San Mateo County.

(2) The advertising space or time is purchased only in connection with events to be held on the premises of the arena owned or leased by the on-sale licensee.

(3) The on-sale licensee serves other brands of beer or wine in addition to the brand manufactured by the beer manufacturer or produced by the winegrower purchasing the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the holder of the beer manufacturer's or winegrower's license and the on-sale licensee.

(c) Any holder of a beer manufacturer's license or winegrower's license who, through coercion or other illegal means, induces a holder of a beer or wine wholesaler's license to fulfill the contractual obligations entered into pursuant to subdivision (a) or (b) is guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 2. This special act applicable to the County of Alameda and the County of San Mateo is necessary within the meaning of Section 16 of Article IV of the California Constitution because a unique situation exists in that racetracks are located in those counties that are owned by persons who are licensed as race track operators by the California Horse Racing Board and licensed to sell alcoholic beverages by the Alcoholic Beverage Control Board.

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 advertising space may be purchased in connection with events scheduled for the spring and winter of 1990, it is necessary that this act take effect immediately.

CHAPTER 207

An act to amend Section 2018 of, and to add Section 585.1 to, the Code of Civil Procedure, relating to actions and proceedings.

[Approved by Governor July 10, 1990. Filed with Secretary of State July 10, 1990]

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

SECTION 1. Section 2018 of the Code of Civil Procedure is amended to read:

2018. (a) It is the policy of the state to: (1) preserve the rights of attorneys to prepare cases for trial with that degree of privacy necessary to encourage them to prepare their cases thoroughly and to investigate not only the favorable but the unfavorable aspects of those cases; and (2) to prevent attorneys from taking undue advantage of their adversary's industry and efforts.

(b) Subject to subdivision (c), the work product of an attorney is not discoverable unless the court determines that denial of discovery will unfairly prejudice the party seeking discovery in preparing that party's claim or defense or will result in an injustice.

(c) Any writing that reflects an attorney's impressions,

conclusions, opinions, or legal research or theories shall not be discoverable under any circumstances.

(d) This section is intended to be a restatement of existing law relating to protection of work product. It is not intended to expand or reduce the extent to which work product is discoverable under existing law in any action.

(e) The State Bar may discover the work product of an attorney against whom disciplinary charges are pending when it is relevant to issues of breach of duty by the lawyer, subject to applicable client approval and to a protective order, where requested and for good cause, to ensure the confidentiality of work product except for its use by the State Bar in disciplinary investigations and its consideration under seal in State Bar Court proceedings. For purposes of this section, whenever a client has initiated a complaint against an attorney, the requisite client approval shall be deemed to have been granted.

(f) In an action between an attorney and his or her client or former client, no work product privilege under this section exists if the work product is relevant to an issue of breach by the attorney of a duty to the attorney's client arising out of the attorney-client relationship.

For purposes of this section, "client" means a client as defined in Section 951 of the Evidence Code.

SEC. 2. Section 585.1 is added to the Code of Civil Procedure, to read:

585.1. Every application to enter default under subdivision (a) or (b) of Section 585 shall include, or be accompanied by, an affidavit stating facts which show that the following conditions have been met:

(1) When the whereabouts of the party claimed to be in default are known by the party requesting the entry of default, a copy of the application for entry of default shall be mailed to the party claimed to be in default.

(2) When a party claimed to be in default is known by the party requesting the entry of default to be represented by an attorney, whether or not that attorney has formally appeared, a copy of the application shall also be sent to the attorney for the party claimed to be in default. Nothing in this section shall be construed to create any obligation to undertake any affirmative effort to determine the existence or identity of counsel representing the party claimed to be in default.

(3) If the whereabouts of a party claimed to be in default are unknown to the party requesting the entry of default and the identity of counsel for that party is also unknown to the requesting party, the application for entry of default shall so state.

(b) A default takes effect 10 days after the filing of the application for entry of default.

(c) A default may not take effect if the party claimed to be in default pleads or otherwise defends the action or proceeding prior

to the expiration of 10 days from the filing of the application for entry of default.

CHAPTER 208

An act to amend Section 35570 of the Education Code, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 1990 Filed with Secretary of State July 10, 1990.]

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

SECTION 1. Section 35570 of the Education Code is amended to read:

35570. The provisions of this article shall apply only to the reallocation of bonded indebtedness of a school district on general obligation bonds under one of the following conditions:

(a) The bonded indebtedness was approved by the voters prior to July 1, 1978.

(b) The bonded indebtedness was incurred for the acquisition or improvement of real property and was approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

SEC. 2. Section 35570 of the Education Code, as amended by Section 1 of this act, applies to any bonded indebtedness reallocation occurring after June 3, 1986.

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 facilitate the reallocation of bonded indebtedness in the case of various school district reorganization procedures that are currently awaiting completion, it is necessary that this act take effect immediately.

CHAPTER 209

An act to amend Sections 15820.15, 15820.16, and 15820.18 of, and to add Article 5 (commencing with Section 15820.21) to Chapter 3.6 of Part 10b of Division 3 of Title 2 of, and to repeal Section 15820.185 of, the Government Code, relating to the University of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 1990 Filed with Secretary of State July 11, 1990]

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

SECTION 1. Section 15820.15 of the Government Code is amended to read:

15820.15. The Legislature finds and declares that the University of California, recognized as being the world's finest public university, requires assistance in the furtherance of its research mission. To this end, the Legislature finds that it is in the public interest to construct, renovate, equip, and staff facilities for research use. The areas of research may include, but are not limited to, engineering, computer science, biological sciences, and related basic sciences. These facilities may be leased or leased-purchased by the University of California.

It is the intent of the Legislature that the cost of any project authorized by statute pursuant to Articles 2 (commencing with Section 15820.16) and 3 (commencing with Section 15820.18) shall be considered an expenditure of state funds in the fiscal year in which payments are made to the State Public Works Board under the terms of the lease-purchase agreement for facilities.

It is the intent of the Legislature that the University of California shall encourage matching funds from industry for research facilities, equipment, and projects.

The Legislature finds that providing facilities for research will better enable the university to secure federal research funding.

Furthermore, the university is requested to maximize federal funding for research.

SEC. 2. Section 15820.16 of the Government Code is amended to read:

15820.16. (a) The State Public Works Board may finance the acquisition of land, buildings, related infrastructure, and equipment and the construction, renovation, and equipping of research facilities and related infrastructure on a site or sites owned by, or subject to a lease or option to purchase held by, the University of California, including buildings or facilities to be leased-purchased by the United States Government.

(b) The board shall lease-purchase to the Regents of the University of California any public building or facility acquired, constructed, renovated, or equipped pursuant to this article. The

terms and the amount of the lease-purchase shall be determined by mutual agreement of the parties. The agreement shall provide that the public building or facility, or portion thereof, that is acquired, constructed, renovated, or equipped pursuant to this article, shall be utilized for research. The board shall contract with the lessee for all activities required to acquire, plan, construct, equip, and renovate these facilities.

SEC. 3. Section 15820.18 of the Government Code is amended to read:

15820.18. (a) The board may issue certificates pursuant to Chapter 4 (commencing with Section 15821) or revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the cost of acquisition, construction, or renovation and the equipping of the public buildings or facilities and related infrastructure authorized by this chapter.

(b) The revenues, rentals, or receipts received by the board from the public buildings or facilities and equipment authorized by this chapter shall be pledged to the payment of the principal of, and the interest on, the certificates, revenue bonds, notes, or anticipation notes issued to finance the acquisition, construction, or renovation and the equipping of those public buildings or facilities and related infrastructure.

(c) No certificates, revenue bonds, notes, or anticipation notes shall be issued, and no acquisition, construction, or renovation and the equipping for any public building or facility and related infrastructure authorized by this article shall be commenced or purchased, unless the Legislature, by statute, authorizes the total amount of certificates, revenue bonds, notes, or anticipation notes that may be used to finance that public building or facility and related infrastructure.

SEC. 4. Section 15820.185 of the Government Code is repealed.

SEC. 5. Article 5 (commencing with Section 15820.21) is added to Chapter 3.6 of Part 10b of Division 3 of Title 2 of the Government Code, to read:

Article 5. Funding of Research Facilities

15820.21. (a) In order to provide for facilities or portions thereof for research within the University of California, including the acquisition of land, buildings, related infrastructure, and equipment and the construction, renovation, and equipping of research facilities or portions thereof and related infrastructure to be dedicated to long-term scientific research activities which are expected to generate federal funding for research and to enhance the economy of this state and the nation or the competitive position of this state and the nation in the international economy, it is the intent of the Legislature to authorize the University of California to use the revenues referenced in subdivision (b) for the acquisition,

construction, renovation, equipping, and maintenance of certain research facilities, or portions thereof, and related infrastructure and for the financing and refinancing of these projects.

(b) To the extent necessary, increases in revenues received by the University of California that are derived from increases in research due to each project shall be available to the Regents of the University of California and shall be used by the regents for the purpose of funding the capital costs, maintenance costs, and financing or refinancing thereof, provided that the project has been specifically identified by a statute that is effective no later than January 1, 1995. Revenue increases in excess of the amount necessary for these purposes shall be shared by the university and the state based on state and university budgetary policies.

(c) The capital costs, maintenance costs, and financing or refinancing of the buildings, facilities, or equipment described in this section shall be the responsibility of the regents and payable from university funds. For purposes of this section, "university funds" shall not include any funds appropriated from the state.

(d) This section shall be construed and applied in a manner entirely consistent with the obligations of the Regents of the University of California under any bond indenture or other financing document in effect on the date of enactment of this article.

15820.22. No provision of this article shall be applicable to the Regents of the University of the California unless the regents adopt a resolution to make the provisions applicable.

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:

Because of the current great need for University of California research facilities, it is necessary that this act take effect immediately.

CHAPTER 210

An act to amend Section 53051 of the Government Code, relating to public agencies.

[Approved by Governor July 10, 1990. Filed with Secretary of State July 11, 1990]

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

SECTION 1. Section 53051 of the Government Code is amended to read:

53051. (a) Within seventy (70) days after the date of commencement of its legal existence, the governing body of each public agency shall file with the Secretary of State on a form

prescribed by the Secretary of State and also with the county clerk of each county in which the public agency maintains an office, a statement of the following facts:

1. The full, legal name of the public agency.

2. The official mailing address of the governing body of the public agency.

3. The name and residence or business address of each member of the governing body of the public agency.

4. The name, title, and residence or business address of the chairman, president, or other presiding officer, and clerk or secretary of the governing body of such public agency.

(b) Within 10 days after any change in the facts required to be stated pursuant to subdivision (a), an amended statement containing the information required by subdivision (a) shall be filed as provided therein. The information submitted to the Secretary of State shall be on a form prescribed by the Secretary of State.

(c) It shall be the duty of the Secretary of State and of the county clerk of each county to establish and maintain an indexed "Roster of Public Agencies," to be so designated, which shall contain all information filed as required in subdivisions (a) and (b), which roster is hereby declared to be a public record.

CHAPTER 211

An act to amend Section 10125 of, and to add Section 10125.7 to, the Health and Safety Code, relating to birth certificates.

[Approved by Governor July 10, 1990. Filed with Secretary of State July 11, 1990.]

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

SECTION 1. 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.

(11) Principal source of pay for prenatal care, which shall include all of the following: Medi-Cal, health maintenance organization or prepaid health plan, private insurance companies, medically indigent, self-pay, other sources which shall include, Medicare, workers' compensation, Title V, other government or nongovernment programs, no charge, and other categories as determined by the State Department of Health Services.

This paragraph shall become inoperative on January 1, 1999, or on the implementation date of the decennial birth certificate revision due to occur on or about January 1, 1999, whichever occurs first.

(12) Expected principal source of pay for delivery, which shall include all of the following: Medi-Cal, health maintenance organization or prepaid health plan, private insurance companies, medically indigent, self-pay, other sources which shall include, Medicare, workers' compensation, Title V, other government or nongovernment programs, no charge, and other categories as determined by the State Department of Health Services.

This paragraph shall become inoperative on January 1, 1999, or on the implementation date of the decennial birth certificate revision

due to occur on or about January 1, 1999, whichever occurs first.

(13) An indication of whether or not the child's parent desires the automatic issuance of a Social Security number to the child.

(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.

(f) If the implementation date of the decennial birth certificate revision occurs prior to January 1, 1999, within 30 days of this implementation date the State Department of Health Services shall file a letter with the Secretary of the Senate and with the Chief Clerk of the Assembly, so certifying.

SEC. 2. Section 10125.7 is added to the Health and Safety Code, to read:

10125.7. Notwithstanding Sections 10125 and 10125.5, the State Department of Health Services may transmit to the Social Security Administration the information necessary to issue a Social Security number to a child in a case where the child's parent has requested the issuance pursuant to paragraph (13) of subdivision (b) of Section 10125.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 212

An act to amend Section 7398 of the Business and Professions Code, to amend Section 94343 of the Education Code, as added by Chapter 1307 of the Statutes of 1989, and to repeal Section 7391.2 of the Business and Professions Code, relating to private postsecondary institutions.

[Approved by Governor July 10, 1990 Filed with Secretary of State July 11, 1990]

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

SECTION 1. Section 7391.2 of the Business and Professions Code is repealed.

SEC. 2. Section 7398 of the Business and Professions Code is amended to read:

7398. (a) Except as provided in subdivision (d), every school shall post with the board a surety bond executed by an admitted surety insurer in the amount of five thousand dollars ($5,000).

(b) The bond shall be in the form approved by the board and shall be conditioned upon compliance with the provisions of this chapter and upon faithful compliance with the terms and conditions of any and all contracts, verbal or written, made by the school to furnish instruction to any person. The bond shall be to the State of California in favor of every person who pays or deposits any money with the school as payment for any instruction. Every bond shall continue in force and effect until notice of termination is given by registered mail to the board, and every bond shall set forth this fact.

(c) A judgment against the principal or surety in any action to enforce the liability on the bond shall include the costs thereof and those incident to the bringing of the action, including a reasonable attorney fee.

(d) A school which pays assessments pursuant to Section 94343 of the Education Code shall not be required to post a surety bond with the board.

SEC. 3. Section 94343 of the Education Code, as added by Chapter 1307 of the Statutes of 1989, is amended to read:

94343. The council shall assess each institution which collects any moneys in advance of rendering services an amount equal to

one-tenth of 1 percent of the total course cost for each student newly enrolled. The assessment per student shall not be less than one dollar ($1), and not more than four dollars ($4). In addition, for each student who prepays an institution an amount in excess of four thousand dollars ($4,000), the council shall assess the institution one-half of 1 percent of the prepaid amount which exceeds four thousand dollars ($4,000). The council shall levy additional reasonable assessments only if they are required to ensure that sufficient funds are available to satisfy the anticipated costs of paying student claims pursuant to Section 94342. The assessments shall be paid into the State Treasury and credited to the appropriate account in the Student Tuition Recovery Fund, and the deposits shall be allocated, except as otherwise provided for in this chapter, solely for the payment of valid claims to students. Unless additional reasonable assessments are required, no assessments shall be levied during any fiscal year if, as of June 30 of the prior fiscal year, the balance in either account of the fund exceeds one million dollars ($1,000,000). However, regardless of the balance in the fund, assessments shall be made on any newly approved institution. Notwithstanding Section 13340 of the Government Code, the moneys so deposited in the Student Tuition Recovery Fund are continuously appropriated to the council for the purpose of paying claims to students pursuant to Section 94342.

Not more than one hundred thousand dollars ($100,000) per fiscal year shall be used for the administration of the tuition recovery program authorized by Section 94342 and this section. The interest earned on money in the fund shall be credited to the fund. Institutions, except for schools of cosmetology licensed pursuant to Article 8 (commencing with Section 7390) of Chapter 10 of Division 3 of the Business and Professions Code, which meet the student tuition indemnification requirements of a California state agency, or which demonstrate to the council that an acceptable alternative method of protecting their students against loss of prepaid tuition has been established, shall be exempted from this section.

In the event of a closure by any approved institution under this chapter, any assessments which have been made against those institutions, but have not been paid into the State Treasury, shall be recovered, or any payments from the Student Tuition Recovery Fund made to students on behalf of any institution may be recovered from that institution, by appropriate action taken by the council. The moneys so deposited in the Student Tuition Recovery Fund shall be exempt from execution and shall not be the subject of litigation or liability on the part of creditors of those institutions or students.

CHAPTER 213

An act to amend Section 99233.2 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 10, 1990. Filed with Secretary of State July 11, 1990]

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

SECTION 1. Section 99233.2 of the Public Utilities Code is amended to read:

99233.2. (a) Except as provided in subdivisions (b) and (c), there shall be allocated to the transportation planning agency, if it is statutorily created, such sums as it may approve, up to 3 percent of annual revenues, for the conduct of the transportation planning and programming process, unless a greater amount is approved by the director.

(b) In those areas that have a county transportation commission created pursuant to Section 130050, up to 1 percent of annual revenues shall be allocated to the commission in Los Angeles County, and up to 3 percent of the annual revenues shall be allocated to the commissions in Orange, Riverside, and San Bernardino Counties for the transportation planning and programming process. Of the funds allocated to the commission in Riverside County, one-half shall be allocated for planning studies within the Western Riverside County and the Coachella Valley areas, as determined by the commission. In addition, up to three-fourths of 1 percent of annual revenues, but not more than one million dollars ($1,000,000) per year, shall be allocated to the multicounty designated transportation planning agency, as defined in Section 130004, for the transportation planning and programming process. No operator shall grant any funds it receives under this chapter to the designated multicounty transportation planning agency for the purposes of the agency carrying out its responsibilities under Division 12 (commencing with Section 130000).

(c) In Ventura County, up to 2 percent of the annual revenues shall be allocated to the Ventura County Transportation Commission for the transportation planning and programming process.

CHAPTER 214

An act to amend Section 2127 of the Streets and Highways Code, relating to transportation.

[Approved by Governor July 10, 1990. Filed with Secretary of State July 11, 1990]

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

SECTION 1. Section 2127 of the Streets and Highways Code is amended to read:

2127. (a) (1) Except in the case of a city or county which has made an election pursuant to paragraph (2) or (3) of this subdivision, in order to receive any allocation pursuant to Section 2126 or Section 7 of Chapter 1600 of the Statutes of 1985, the city or county, as the case may be, shall expend for the maintenance and reconstruction, as defined in subdivision (d) of Section 2126, of its local street and highway system during the fiscal year that it receives an allocation pursuant to Section 2126 or that Section 7 not less than its base year expenditure, excluding the allocation received pursuant to Section 2126 or that Section 7, or both, during the fiscal year.

(2) A city or county may elect to expend during the two fiscal years that it receives an allocation, a total amount which is not less than twice the amount of its base year expenditure.

(3) A city may elect to expend during the two fiscal years that it receives an allocation and the following fiscal year, a total amount which is not less than three times the amount of its base year expenditure. This paragraph applies only to the Cities of Bakersfield, El Segundo, Novato, San Mateo, San Rafael, Santa Maria, Seal Beach, and Westminster. For the purposes of this paragraph, either actual expenditures or funds encumbered by contractual obligations in the 1987–88 fiscal year shall qualify as expenditures in the year after allocations are received.

(4) Any city, except the Cities of Bakersfield, El Segundo, Novato, San Rafael, and Santa Maria, or county making an election pursuant to paragraph (2) or (3) shall so notify the Controller by December 31, 1987, and a city or county which fails to do so shall be governed by paragraph (1).

(5) Any city or county with a population of 40,000 or less which makes an election pursuant to paragraph (2) or (3) and which expends funds pursuant to that election by October 30, 1988, shall be deemed to have notified the Controller pursuant to paragraph (4).

(6) This subdivision does not apply to a city or a county, including a city which filed a notice with the Controller pursuant to subdivision (g), with a population of 10,000 or less, as most recently determined by the Department of Finance.

(b) The amount allocated to a city or a county, as the case may be, shall be expended by October 30, 1988.

(c) (1) For purposes of this section, "base year expenditure" means the amount that the city or county, as the case may be, expended for patching, overlay, and sealing, and reconstruction of its local street and highway system during the 1984–85 fiscal year, as reported to the Controller pursuant to Section 2151. Any city or county, with a population of 100,000 or less as of October 1, 1986, which filed a notice with the Controller pursuant to subdivision (g), may elect to have its "base year expenditure" determined on the basis of its 1983–84 fiscal year expenditures. A city or county making this election shall so notify the Controller by December 31, 1987, and the election shall not be available to a city or county which does not so notify the Controller.

(2) If the sum of the revenue received by a city or county during the fiscal year pursuant to Section 500 of Title 16, Section 104(b) (2) and (6) and Sections 125 and 144 of Title 23, and Chapter 68 (commencing with Section 5121) of Title 42 of the United States Code, and from the federal Community Block Grant Program, the federal Revenue Sharing Program, and transit assistance funds from the Transportation Planning and Development Account, which was expended for the maintenance and reconstruction of its local street and highway system during the 1984–85 fiscal year, as reported to the Controller pursuant to Section 2151, is more than the sum of funds it received from those sources during any fiscal year, the base year expenditure of the city or county, as the case may be, for the fiscal year shall be reduced by the difference between the sums. For purposes of this paragraph, "revenue received" means that percentage of the project expenditures or the maximum reimbursable amount of eligible project costs as agreed upon by the federal government and the local agency for those projects eligible under this paragraph.

(d) For each fiscal year during which an allocation was made pursuant to Section 2126 or Section 7 of Chapter 1600 of the Statutes of 1985, or both, the Controller shall audit the amount each county and city expended for the maintenance and reconstruction, as defined in subdivision (d) of Section 2126, of its local street and highway system during the fiscal year. For amounts allocated to counties and cities for expenditure by October 30, 1988, the audit shall be completed by October 30, 1990.

(e) (1) If the Controller determines pursuant to subdivision (d) that a county or city, for the fiscal year, expended for the maintenance and reconstruction of its local street and highway system less than the required amount determined pursuant to subdivision (a) or (b), its allocation pursuant to Section 2104 or 2107, as the case may be, shall be reduced during the next fiscal year by the amount that its expenditure is less than the required amount, but the amount of the reduction shall not exceed the amount allocated to the city or county in each fiscal year that the city or county received funds pursuant to Section 2126 or Section 7 of Chapter 1600 of the Statutes of 1985.

(2) Paragraph (1) does not apply to a city or county during the fiscal year in which it returns to the Controller the allocation it received pursuant to Section 2126 or that Section 7, or both. The city or county shall return the allocation plus any accrued interest within 30 days after receipt of the allocation.

(f) Any funds withheld or returned as a result of subdivision (e) shall be reallocated to the other counties and cities whose expenditure is not less than its required amount pursuant to subdivision (b) or (c) of Section 2126, as the case may be.

(g) In the case of a city or county which on or before October 1, 1986, files with the Controller a written notice declaring the inability of the city or county to comply with the matching requirement of subdivision (a), the Controller shall postpone the penalty provisions of paragraph (1) of subdivision (e) and shall not reallocate the funds, as provided for by subdivision (f), until September 1, 1987. The notice to the Controller shall contain all of the following:

(1) The amount of 1984–85 base year matching requirements as determined by the Controller's audit.

(2) The amount the local entity will fall short of the base year matching requirement.

(3) The reasons why the city or county is unable to meet the base year matching requirement.

(4) The amounts expended by the local entity on patching, overlay, sealing, and reconstruction of its street and highway system in fiscal years 1981–82, 1982–83, and 1983–84.

The Controller shall, by November 1, 1986, transmit to the Chairpersons of the Senate and Assembly Transportation Committees and the Joint Legislative Budget Committee the information submitted by counties and cities in the written notices provided for in this subdivision.

CHAPTER 215

An act to amend Section 5491.2 of the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor July 10, 1990 Filed with Secretary of State July 11, 1990.]

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

SECTION 1. Section 5491.2 of the Business and Professions Code is amended to read:

5491.2. (a) 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. A city or county may exempt from the payment of these

fees the owner of a display identifying an achievement award, the name of a farm, or the name of a business for which the farm produces, if the display is located on an operating farm within an agricultural preserve established pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code), and if the city or county finds that the exemption will further the purposes of the agricultural preserve.

(b) The actual cost to the city or county may be fixed upon a determination of the total estimated reasonable cost. The amount of that cost and the fee to be charged is exclusively within the discretion of the city or county.

CHAPTER 216

An act to amend and renumber Section 22520 of, and to repeal Sections 2066 and 2089.5 of, the Business and Professions Code, to amend Sections 1812.201 and 1947.11 of, and to amend and renumber Section 43.55 of, the Civil Code, to amend Section 430.10 of the Code of Civil Procedure, to amend Sections 1203 and 14021 of, and to add a heading to Part 5 (commencing with Section 14000) to Division 3 of Title 1 of, the Corporations Code, to amend Sections 17732.3, 44214, 52965, and 76171 of, to amend the heading of Article 1 (commencing with Section 44670.1) of Chapter 3.1 of Part 25 of, and Article 11 (commencing with Section 76170) of Chapter 1 of Part 47 of, to amend and renumber Sections 24807.5 and 33126 of, to amend and renumber the heading of Chapter 14.3 (commencing with Section 67320) of Part 40 of, and to repeal Article 8.5 (commencing with Section 69660) of Chapter 2 of Part 42 of, and the heading of Article 4 (commencing with former Section 72300) of Chapter 3 of Part 45 of, the Education Code, to repeal Section 1027 of the Evidence Code, to amend and renumber the heading of Article 10 (commencing with Section 7700) of Chapter 6 of Division 2 of, to amend and renumber Section 7700 of, and to repeal Sections 18131 and 18132 of, the Financial Code, to amend Sections 3033 and 3700 of the Fish and Game Code, to amend Section 69051 of, to amend and renumber the heading of Chapter 16 (commencing with Section 77001) of Division 22 of, and to add a heading immediately preceding Section 38191 as Article 2.5 (commencing with Section 38191) of Chapter 5 of Part 3 of Division 15 of, the Food and Agricultural Code, to amend Sections 8684, 8878.16, 15029, 16369.1, 26299.073, 26299.077, 73486, 74193, and 77200 of, to amend the heading of Article 5 (commencing with Section 55110) of Chapter 1 of Part 2 of Division 2 of Title 5 of, to amend and renumber Section 6714 of, and to repeal Section 53602.1 of, the Government Code, to amend and renumber the heading of Article 4 (commencing with Section 754) of Chapter 5 of Division 3 of the Harbors and Navigation Code, to amend Sections 199.715,

1349.2, 1569.335, 1596.861, 11965.7, 25150.3, 25199.7, 25356.1, 40469.5, 40920, 41062, 42301.9, and 50668.5 of, to amend and renumber Sections 436.45, 441.21, 441.22, 1797.192, 25920, 25921, 25922, 25923, 25923.1, 25924, 40405, and 40716 of, to amend and renumber the heading of Chapter 3.95 (commencing with Section 1599.60) of Division 2 of, and the heading of Chapter 10 (commencing with Section 40950) of Part 3 of Division 26 of, and to repeal Sections 1422.7, 1432.1, 1534.5, 1797.63, 1797.112, 1797.192, 4010.9, 18029.6, and 50803.5 of, and to repeal the heading of Part 3 (commencing with former Section 14001) of Division 12 of, the Health and Safety Code, to amend Section 676.2 of, to amend and renumber Sections 676.2 and 11512.15 of, and to amend and renumber the heading of Article 5 (commencing with Section 755) of Chapter 1 of Part 2 of Division 1 of, the Insurance Code, to amend Sections 12286 and 12322 of, to repeal Sections 169 and 1463.8 of, and to repeal Chapter 2.6 (commencing with Section 12320) of Title 2 of Part 4 of, the Penal Code, to amend Sections 14340 and 33216 of, to amend and renumber the heading of Division 26 (commencing with Section 36000) of, and to repeal Chapter 4.9 (commencing with Section 25390) of Division 15 of, the Public Resources Code, to amend Section 2891.1 of, and to amend and renumber Section 1075 of, the Public Utilities Code, to amend Sections 23456, 43002.3, 43012, and 43101 of, to add a heading as Part 10.7 (commencing with Section 21001) of Division 2 of, and to repeal the heading of Chapter 4 (commencing with former Section 3521) of Part 6 of Division 1 of, the Revenue and Taxation Code, to repeal Sections 486 and 2549 of the Streets and Highways Code, to amend Sections 1264 and 13028 of, to amend and renumber Section 1591 of, and to repeal Sections 644.5 and 9613 of, the Unemployment Insurance Code, to amend Sections 2454, 3016, 11610, 11710.2, 13353.7, 13558, 22511.8, 23270, and 24607 of, and to repeal Section 40002.1 of, the Vehicle Code, and to amend Sections 5008, 14105.65, and 16702 of, to amend and renumber Section 14005.3 of, to add a heading as Part 4.7 (commencing with Section 16900) of Division 9 of, and to repeal Sections 1764.2, 4681.2, 9726.1, 9732, and 12304.1 of, the Welfare and Institutions Code, relating to the maintenance of the codes.

[Approved by Governor July 10, 1990. Filed with Secretary of State July 11, 1990.]

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

SECTION 1. Section 2066 of the Business and Professions Code, as added by Chapter 1170 of the Statutes of 1985, is repealed.

SEC. 2. Section 2089.5 of the Business and Professions Code, as added by Chapter 1176 of the Statutes of 1985, is repealed.

SEC. 4. Section 22520 of the Business and Professions Code, as added by Chapter 433 of the Statutes of 1988, is amended and renumbered to read:

22519.5. Nothing in this chapter shall be construed to limit the effect of any other state law or any local ordinance governing money exchange house permit applications, permit denials, permit renewals, permit revocations, regulatory fees, regulations on advertising or signs, receipt requirements, or penalties for violations thereof.

SEC. 5. Section 43.55 of the Civil Code, as amended by Chapter 195 of the Statutes of 1988, is amended and renumbered to read:

43.56. No cause of action arises against a foster parent for alienation of affection of a foster child.

SEC. 6. Section 1812.201 of the Civil Code is amended to read:

1812.201. For the purposes of this title, the following definitions shall apply:

(a) "Seller assisted marketing plan" means any sale or lease or offer to sell or lease any product, equipment, supplies, or services which requires a total initial payment exceeding five hundred dollars ($500), but requires an initial cash payment of less than fifty thousand dollars ($50,000), which will aid a purchaser or will be used by or on behalf of the purchaser in connection with or incidental to beginning, maintaining, or operating a business when the seller assisted marketing plan seller has advertised or in other manner solicited the purchase or lease of the seller assisted marketing plan and done any of the following acts:

(1) Represented that the purchaser will earn, is likely to earn, or can earn an amount in excess of the initial payment paid by the purchaser for participation in the seller assisted marketing plan.

(2) Represented that there is a market for the product, equipment, supplies, or services, or any product marketed by the user of the product, equipment, supplies, or services sold or leased or offered for sale or lease to the purchaser by the seller, or anything, be it tangible or intangible, made, produced, fabricated, grown, bred, modified, or developed by the purchaser using, in whole or in part, the product, supplies, equipment, or services which were sold or leased or offered for sale or lease to the purchaser by the seller assisted marketing plan seller.

(3) Represented that the seller will buy back or is likely to buy back any product made, produced, fabricated, grown, or bred by the purchaser using, in whole or in part, the product, supplies, equipment, or services which were initially sold or leased or offered for sale or lease to the purchaser by the seller assisted marketing plan seller.

(b) A "seller assisted marketing plan" shall not include:

(1) A security as defined in the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) which has been qualified for sale by the Department of Corporations, or is exempt under Chapter 1 (commencing with Section 25100) of Part 2 of Division 1 of Title 4 of the Corporations Code from the necessity to qualify.

(2) A franchise defined by the Franchise Investment Law

(Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) which is registered with the Department of Corporations or is exempt under Chapter 1 (commencing with Section 31100) of Part 2 of Division 5 of Title 4 of the Corporations Code from the necessity of registering.

(3) Any transaction in which either the seller or purchaser or the lessor or lessee is licensed pursuant to and the transaction is governed by the Real Estate Law, Division 4 (commencing with Section 10000) of the Business and Professions Code.

(4) A license granted by a general merchandise retailer which allows the licensee to sell goods, equipment, supplies, products, or services to the general public under the retailer's trademark, trade name, or service mark if all of the following criteria are satisfied:

(A) The general merchandise retailer has been doing business in this state continually for five years prior to the granting of the license.

(B) The general merchandise retailer sells diverse kinds of goods, equipment, supplies, products, or services.

(C) The general merchandise retailer also sells the same goods, equipment, supplies, products, or services directly to the general public.

(D) During the previous 12 months the general merchandise retailer's direct sales of the same goods, equipment, supplies, products, or services to the public account for at least 50 percent of its yearly sales of these goods, equipment, supplies, products, or services made under the retailer's trademark, trade name, or service mark.

(5) A newspaper distribution system distributing newspapers as defined in Section 6362 of the Revenue and Taxation Code.

(6) A sale or lease to an existing or beginning business enterprise which also sells or leases equipment, products, supplies, or performs services that are not supplied by the seller and that the purchaser does not utilize with the equipment, products, supplies, or services of the seller, if the equipment, products, supplies, or services not supplied by the seller account for more than 25 percent of the purchaser's gross sales.

(7) The sale in the entirety of an "ongoing business." For purposes of this paragraph, an "ongoing business" means a business which for at least six months previous to the sale has been operated from a particular specific location, has been open for business to the general public, and has had all equipment and supplies necessary for operating the business located at that location. The sale shall be of the entire "ongoing business" and not merely a portion of the ongoing business.

(8) A sale or lease or offer to sell or lease to a purchaser (A) who has for a period of at least six months previously bought products, supplies, services, or equipment which were sold under the same trademark or trade name or which were produced by the seller and, (B) who has received on resale of the product, supplies, services, or equipment an amount which is at least equal to the amount of the

initial payment.

(9) The renewal or extension of an existing seller assisted marketing plan contract.

(c) "Person" includes an individual, corporation, partnership, joint venture, or any business entity.

(d) "Seller" means a person who sells or leases or offers to sell or lease a seller assisted marketing plan and who meets either of the following conditions:

(1) Has sold or leased or represents or implies that the seller has sold or leased, whether in California or elsewhere, at least five seller assisted marketing plans within 24 months prior to a solicitation.

(2) Intends or represents or implies that the seller intends to sell or lease, whether in California or elsewhere, at least five seller assisted marketing plans within 12 months following a solicitation.

For purposes of this title, the seller is the person to whom the purchaser becomes contractually obligated. A "seller" does not include a licensed real estate broker or salesman who engages in the sale or lease of a "business opportunity" as that term is used in Sections 10000 to 10030, inclusive, of the Business and Professions Code, or elsewhere in Chapter 1 (commencing with Section 10000), Chapter 2 (commencing with Section 10050), or Chapter 6 (commencing with Section 10450) of Part 1 of Division 4 of the Business and Professions Code.

(e) "Purchaser" means a person who is solicited to become obligated or does become obligated on a seller assisted marketing plan contract.

(f) "Equipment" includes machines, all electrical devices, video or audio devices, molds, display racks, vending machines, coin operated game machines, machines which dispense products, and display units of all kinds.

(g) "Supplies" includes any and all materials used to produce, grow, breed, fabricate, modify, develop, or make any product or item.

(h) "Product" includes any tangible chattel, including food or living animals, which the purchaser intends to:

(1) Sell or lease.

(2) Use to perform a service.

(3) Resell or attempt to resell to the seller assisted marketing plan seller.

(4) Provide or attempt to provide to the seller assisted marketing plan seller or to any other person whom the seller suggests the purchaser contact so that the seller assisted marketing plan seller or that other person may assist, either directly or indirectly, the purchaser in distributing, selling, leasing, or otherwise disposing of the product.

(i) "Services" includes any assistance, guidance, direction, work, labor, or services provided by the seller to initiate or maintain or assist in the initiation or maintenance of a business.

(j) "Seller assisted marketing plan contract" or "contract" means

any contract or agreement which obligates a purchaser to a seller.

(k) "Initial payment" means the total amount a purchaser is obligated to pay under the terms of the seller assisted marketing plan contract prior to or at the time of delivery of the equipment, supplies, products, or services or within six months of the purchaser commencing operation of the seller assisted marketing plan. If the contract sets forth a specific total sale price for purchase of the seller assisted marketing plan which total price is to be paid partially as a downpayment and then in specific monthly payments, the "initial payment" means the entire total sale price.

(*l*) "Initial cash payment" or "downpayment" means that portion of the initial payment which the purchaser is obligated to pay to the seller prior to or at the time of delivery of equipment, supplies, products, or services. It does not include any amount financed by or for which financing is to be obtained by the seller, or financing which the seller assists in obtaining.

(m) "Buy-back" or "secured investment" means any representation which implies in any manner that the purchaser's initial payment is protected from loss. These terms include a representation or implication of any of the following:

(1) That the seller may repurchase either all or part of what it sold to the purchaser.

(2) That the seller may at some future time pay the purchaser the difference between what has been earned and the initial payment.

(3) That the seller may in the ordinary course buy from the purchaser items made, produced, fabricated, grown, bred, modified, or developed by the purchaser using, in whole or in part, the product, supplies, equipment, or services which were initially sold or leased to the purchaser by the seller.

(4) That the seller or a person to whom the seller will refer the purchaser may in the ordinary course sell, lease, or distribute the items the purchaser has for sale or lease.

SEC. 7. Section 1947.11 of the Civil Code is amended to read:

1947.11. (a) In any city, county, or city and county which administers a system of controls on the price at which residential rental units may be offered for rent or lease and which requires the registration of rents, upon the establishment of a certified rent level, any owner who charges rent to a tenant in excess of the certified lawful rent ceiling shall refund the excess rent to the tenant upon demand. If the owner refuses to refund the excess rent and if a court determines that the owner willfully or intentionally charged the tenant rent in excess of the certified lawful rent ceiling, the court shall award the tenant a judgment for the excess amount of rent and may treble that amount. The prevailing party shall be awarded attorney's fees and court costs.

(b) The remedy provided by this section shall not be construed to prohibit any other remedies available to any party affected by this section.

(c) This section shall not be construed to extend the time within

which actions are required to be brought beyond the otherwise applicable limitation set forth in the Code of Civil Procedure.

SEC. 8. Section 430.10 of the Code of Civil Procedure is amended to read:

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

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

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

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

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

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

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

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

(h) No certificate was filed as required by Section 411.35.

SEC. 9. Section 1203 of the Corporations Code is amended to read:

1203. (a) If a tender offer, including a share exchange tender offer (Section 183.5), or a written proposal for approval of a reorganization subject to Section 1200 or for a sale of assets subject to subdivision (a) of Section 1001 is made to some or all of a corporation's shareholders by an interested party (herein referred to as an "Interested Party Proposal"), an affirmative opinion in writing as to the fairness of the consideration to the shareholders of that corporation shall be delivered as follows:

(1) If no shareholder approval or acceptance is required for the consummation of the transaction, the opinion shall be delivered to the corporation's board of directors not later than the time that consummation of the transaction is authorized and approved by the board of directors.

(2) If a tender offer is made to the corporation's shareholders, the opinion shall be delivered to the shareholders at the time that the tender offer is first made in writing to the shareholders. However, if the tender offer is commenced by publication and tender offer materials are subsequently mailed or otherwise distributed to the shareholders, the opinion may be omitted in that publication if the opinion is included in the materials distributed to the shareholders.

(3) If a shareholders' meeting is to be held to vote on approval of the transaction, the opinion shall be delivered to the shareholders with the notice of the meeting (Section 601).

(4) If consents of all shareholders entitled to vote are solicited in

writing (Section 603), the opinion shall be delivered at the same time as that solicitation.

(5) If the consents of all shareholders are not solicited in writing, the opinion shall be delivered to each shareholder whose consent is solicited prior to that shareholder's consent being given, and to all other shareholders at the time they are given the notice required by subdivision (b) of Section 603.

For purposes of this section, the term "interested party" means a person who is a party to the transaction and (A) directly or indirectly controls the corporation that is the subject of the tender offer or proposal, (B) is, or is directly or indirectly controlled by, an officer or director of the subject corporation, or (C) is an entity in which a material financial interest (subdivision (a) of Section 310) is held by any director or executive officer of the subject corporation. For purposes of the preceding sentence, "any executive officer" means the president, any vice president in charge of a principal business unit, division, or function such as sales, administration, research, development, or finance, and any other officer or other person who performs a policymaking function or has the same duties as those of a president or vice president. The opinion required by this subdivision shall be provided by a person who is not affiliated with the offeror and who, for compensation, engages in the business of advising others as to the value of properties, businesses, or securities. The fact that the opining person previously has provided services to the offeror or a related entity or is simultaneously engaged in providing advice or assistance with respect to the proposed transaction in a manner which makes its compensation contingent on the success of the proposed transaction shall not, for those reasons, be deemed to affiliate the opining person with the offeror. Nothing in this subdivision shall limit the applicability of the standards of review of the transaction in the event of a challenge thereto under Section 310 or subdivision (c) of Section 1312.

This subdivision shall not apply to an Interested Party Proposal if the corporation that is the subject thereof does not have shares held of record by 100 or more persons (determined as provided in Section 605), or if the transaction has been qualified under Section 25113 or 25121 and no order under Section 25140 or subdivision (a) of Section 25143 is in effect with respect to that qualification.

(b) If a tender of shares or a vote or written consent is being sought pursuant to an Interested Party Proposal and a later tender offer or written proposal for a reorganization subject to Section 1200 or sale of assets subject to subdivision (a) of Section 1001 that would require a vote or written consent of shareholders is made to the corporation or its shareholders (herein referred to as a "Later Proposal") by any other person at least 10 days prior to the date for acceptance of the tendered shares or the vote or notice of shareholder approval on the Interested Party Proposal, then each of the following shall apply:

(1) The shareholders shall be informed of the Later Proposal and

any written material provided for this purpose by the later offeror shall be forwarded to the shareholders at that offeror's expense.

(2) The shareholders shall be afforded a reasonable opportunity to withdraw any vote, consent, or proxy previously given before the vote or written consent on the Interested Party Proposal becomes effective, or a reasonable time to withdraw any tendered shares before the purchase of the shares pursuant to the Interested Party Proposal. For purposes of this subdivision, a delay of 10 days from the notice or publication of the Later Proposal shall be deemed to provide a reasonable opportunity or time to effect that withdrawal.

SEC. 10. A heading is added to Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code, immediately preceding Chapter 1 of that part, to read:

PART 5. SMALL BUSINESSES

SEC. 11. Section 14021 of the Corporations Code is amended to read:

14021. The board consists of the following membership:

(a) The Superintendent of Banks or his or her designee.

(b) The Director of Commerce or his or her designee.

(c) The Director of Food and Agriculture or his or her designee.

(d) The Director of the Employment Development Department or his or her designee.

(e) The President of the State Assistance Fund for Energy, California Business and Industrial Development Corporation (SAFE BIDCO) shall serve as an ex officio nonvoting member.

(f) The Director of the California Export Finance Office, California State World Trade Commission shall serve as an ex officio nonvoting member.

(g) The Chief of the Office of Small and Minority Business, Department of General Services shall serve as an ex officio nonvoting member.

(h) The California Small Business Advocate shall serve as an ex officio nonvoting member.

(i) The Chairperson of the Coalition of California Small Business Development Centers shall serve as an ex officio nonvoting member.

(j) Thirteen members appointed by the Governor, including:

(1) Two persons residing in economically disadvantaged areas who are actively engaged in providing leadership and assistance for persons residing in these areas; one each from an urban and rural area.

(2) Two persons to be recommended by the financial institutions participating in the program as of January 1 of each year.

(3) Two persons actively engaged in a commercial, agricultural, or industrial business and who are members of a small, agricultural, minority, or women's business association.

(4) One person who is an officer of an urban labor organization.

(5) One person experienced in financial matters or actively

engaged in the banking, savings and loan, or insurance business.

(k) Two Members of the Legislature or their designees, one of whom shall be appointed by the Speaker of the Assembly, and one by the Senate Rules Committee, shall advise with the board insofar as it does not conflict with the duties of the legislators. For purposes of this part, the two Members of the Legislature shall constitute a joint interim legislative committee on the subject of this part and shall have all the powers and duties imposed upon these committees by the Joint Rules of the Senate and the Assembly.

(*l*) Four persons actively involved in the business or agricultural community, two of whom shall be appointed by the Speaker of the Assembly, and two by the Senate Rules Committee, each of whom may be removed at the pleasure of the appointing authority.

(m) One person from each small business development corporation, who shall be selected by the board of directors or members of each corporation in accordance with its bylaws, each of whom shall serve as a nonvoting member of the board.

(n) The Chairperson of the Development Board shall be designated by the Governor from the members he or she appoints.

SEC. 12. Section 17732.3 of the Education Code is amended to read:

17732.3. (a) Any school district for which one or more projects has been funded under this chapter may, pursuant to written agreement with any other public or private person or entity, utilize any school buildings, land, or other real property interest that the governing board determines is not needed for school purposes, and will not be needed for school purposes within the next 30 years, in a joint venture with that person or entity to generate revenues for school facilities purposes, pursuant to the following conditions:

(1) The district has developed a school district asset utilization plan, setting forth the information required under subdivision (b), which plan has been the subject of a public hearing, and the governing board of the district has made the finding that the implementation of the plan will benefit the district.

(2) Prior to the execution by the school district governing board of any agreement regarding the utilization of the school buildings or land, or both, under a joint venture pursuant to this section, the school district asset utilization plan has been submitted for, and has received, the review and approval of the State Allocation Board. No later than 90 days after the receipt of the plan, the board shall determine whether to approve the plan, which approval shall be granted if the board finds the plan to comply with this section.

(3) Once every three years after the approval of any plan pursuant to paragraph (2), the school district shall update the plan with information regarding the disposition of the revenues received by the district from the utilization of the school buildings or land, or both, under the joint venture, including the effect of those revenues upon the school facility needs for which the district may otherwise be eligible under this chapter or under any other school facilities

program administered by the board, together with such other information as the board may require, and shall resubmit the plan to the board for its review and approval. In the event that the board refuses to approve the plan on the basis that the district is no longer in substantial compliance with this section, the surplus school buildings or land, or both, utilized under the joint venture shall no longer be exempt from the rental requirements of Section 17732.

(4) Pursuant to a school district asset utilization plan approved under this section, the school district may utilize school buildings or land, or both, in a joint venture, the revenues from which shall be placed by the district in a separate fund. The principal and interest from that separate fund may be expended by the district only for the following school facilities purposes, as authorized under the approved plan, in accordance with the pupil loading and cost standards established pursuant to this chapter: the acquisition of land, new construction, reconstruction, modernization, rehabilitation, and deferred maintenance.

(b) For purposes of this section, a school district asset utilization plan shall include, but not necessarily be limited to, all of the following:

(1) A specific description of the surplus school buildings or land, or both, to be utilized under the joint venture.

(2) The identification of the current educational uses of the surplus school buildings or land, or both, and of the educational uses proposed under the joint venture.

(3) The identification of the current noneducational uses of the surplus school buildings or land, or both, and of the noneducational uses proposed under the joint venture, and a specific assessment of the compatibility of those uses with any applicable general or specific governmental land use plans and with applicable zoning restrictions.

(4) A description of the prospective economic benefits to be derived by the district from the joint venture.

(5) A description of the prospective educational benefits to be derived by the district from the joint venture.

(6) A comprehensive description of the joint venture, including, but not limited to, a description of the intended means of financing the joint venture.

(7) A plan for the disposition of the revenues received by the district from the joint venture.

SEC. 13. Section 24807.5 of the Education Code, as added by Chapter 142 of the Statutes of 1988, is amended and renumbered to read:

24807.7. Notwithstanding the provisions of Section 24807, the annuity reserve fund board may adopt rules allowing participants who have reached 70 years of age to withdraw their benefits.

SEC. 14. Section 33126 of the Education Code, as added by Chapter 1680 of the Statutes of 1984, is amended and renumbered to read:

33126.5. The State Allocation Board, in cooperation with the

Superintendent of Public Instruction, shall develop and maintain an automated school facilities inventory that is capable of indicating the statewide percentage of facility utilization and projecting school facility needs five years in advance, in order to permit the board to study alternative proposals for the allocation of funds for new construction, maintenance, and rehabilitation.

SEC. 15. Section 44214 of the Education Code is amended to read:

44214. If a member is absent from any four regularly scheduled meetings in any calendar year, his or her office as a member of the commission shall be deemed vacant. The chairperson of the commission shall forthwith notify the Governor that the vacancy exists.

SEC. 16. The heading of Article 1 (commencing with Section 44670.1) of Chapter 3.1 of Part 25 of the Education Code is amended to read:

Article 1. School Development Plans

SEC. 17. Section 52965 of the Education Code is amended to read:

52965. This article does not apply to the University of California unless the regents, by resolution, make these provisions applicable.

SEC. 18. The heading of Chapter 14.3 (commencing with Section 67320) of Part 40 of the Education Code, as amended and renumbered by Chapter 829 of the Statutes of 1987, is amended and renumbered to read:

CHAPTER 14.25. OFFICE EQUIPMENT

SEC. 19. Article 8.5 (commencing with Section 69660) of Chapter 2 of Part 42 of the Education Code is repealed.

SEC. 20. The heading of Article 4 (commencing with former Section 72300) of Chapter 3 of Part 45 of the Education Code is repealed.

SEC. 21. The heading of Article 11 (commencing with Section 76170) of Chapter 1 of Part 47 of the Education Code is amended to read:

Article 11. Greater Avenues for Independence (GAIN) Program and Residency for Community Colleges

SEC. 22. Section 76171 of the Education Code is amended to read:

76171. Notwithstanding Section 84500.1, a community college district may report for attendance and average daily attendance for apportionment to the board of governors the attendance of any student who is a nonresident and who is a participant in the Fresno County Greater Avenues for Independence (GAIN) Program described in Article 3.2 (commencing with Section 11320) of Part 3 of Division 9 of the Welfare and Institutions Code. The authority conferred by this section shall only be implemented or utilized if the

local community college district reaches agreement with the local GAIN county committee in Fresno County to provide an exemption pursuant to Section 76170.

SEC. 23. Section 1027 of the Evidence Code, as added by Chapter 1396 of the Statutes of 1970, is repealed.

SEC. 24. The heading of Article 10 (commencing with Section 7700) of Chapter 6 of Division 2 of the Financial Code is amended and renumbered to read:

Article 10.5. Leasing

SEC. 25. Section 7700 of the Financial Code is amended and renumbered to read:

7720. (a) An association may invest in tangible personal property, including without limitation, vehicles, mobilehomes, machinery, equipment, or furniture, and may hold the property for rental or sale.

(b) Investment under this section is limited to not in excess of 10 percent of the total assets of the association.

SEC. 26. Section 18131 of the Financial Code, as added by Chapter 725 of the Statutes of 1983, is repealed.

SEC. 27. Section 18132 of the Financial Code, as amended by Chapter 725 of the Statutes of 1983, is repealed.

SEC. 28. Section 3033 of the Fish and Game Code is amended to read:

3033. (a) The department shall, upon application and payment of a fee, issue a reduced fee hunting license, which authorizes the licensee to take any bird or mammal as otherwise authorized pursuant to this code and regulations adopted thereto, to a disabled veteran, as defined in subdivision (b), who has not been convicted of any violation of this code. The license fee under this section shall be two dollars ($2) for the hunting license year beginning on July 1, 1990, and, for the following years, this license fee may be annually reviewed and adjusted in accordance with Section 713.

(b) "Disabled veteran" means a person having a 70 percent or greater service-connected disability and an honorable discharge from military service. The person shall be eligible upon presentation of proof of an honorable discharge from military service and proof of the disability. Proof of the disability shall be by certification from the United States Department of Veterans' Affairs or by presentation of a license issued pursuant to this section in the preceding license year.

(c) This section shall become operative on July 1, 1990.

SEC. 29. Section 3700 of the Fish and Game Code is amended to read:

3700. (a) It is unlawful for any person, except a person licensed pursuant to paragraph (2) of subdivision (a) of Section 3031, to take any migratory game bird, except jacksnipe, coots, gallinules, western mourning doves, white-winged doves, and band-tailed pigeons,

without first procuring a state duck stamp and having the state duck stamp in his or her possession while taking those birds.

(b) State duck stamps shall be sold for a fee of seven dollars and fifty cents ($7.50) by the department and by license agents, who are authorized by the department pursuant to Section 1055, in the same manner as hunting licenses. The commission shall determine the form of state duck stamps pursuant to Section 1050.

SEC. 30. A heading is added immediately preceding Section 38191 as Article 2.5 (commencing with Section 38191) of Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 2.5. Extra Light Milk

SEC. 31. Section 69051 of the Food and Agricultural Code is amended to read:

69051. The powers and duties of the commission, subject to Sections 69032 and 69033, shall include, but are not limited to, all of the following powers and duties:

(a) To adopt and, from time to time, alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out this chapter, including rules for appeals from any bylaw, rule, regulation, or order of the commission.

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with, or determined reasonably necessary for, the proper or advisable effectuation of the purposes of this chapter.

(c) To appoint its own officers, including a chairperson, one or more vice chairpersons, and any other officers as it determines necessary. The officers have the powers and duties delegated to them by the commission.

(d) To employ a manager to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, that are necessary to carry out this chapter. The commission may retain a management firm or the staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission. If the manager engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the manager.

(e) To fix the compensation for all employees of the commission.

(f) To appoint committees composed of both members and nonmembers of the commission, such as a processor advisory committee, to advise the commission in carrying out this chapter.

(g) To establish offices and incur expenses, invest funds in the

permissible investments as specified in Section 58939, enter into any and all contracts and agreements, and create liabilities and borrow funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(h) To keep accurate books, records, and accounts of all of its dealings, which books, records, and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers of pistachios, copies of which shall also be submitted to the Legislature and the department. In addition, the director may, as he or she determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission. The Department of Finance may audit books, records, and accounts of the commission at any time.

(i) To promote the sale of pistachios by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for pistachios, and to educate and instruct the public with respect to the uses, healthful properties, and nutritional value of pistachios.

(j) To educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling pistachios, make market surveys and analyses, and present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect the marketing of pistachios.

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and any other contracts or agreements as the commission may determine necessary for the promotion of the sale of pistachios.

(*l*) To conduct and contract with others to conduct scientific research, including the study, analysis, dissemination, and accumulation of information obtained from the research or elsewhere, respecting cultural and production practices, and marketing and distribution of pistachios. In connection with the research, the commission may accept contributions of, or match, private, state, or federal funds that may be available for these purposes, and employ or make contributions of funds to other persons or state or federal agencies conducting the research.

(m) To publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the pistachio industry, to producers and processors.

(n) To establish an assessment rate to defray operating costs of the commission. Any assessment rate established pursuant to this chapter may be modified in accordance with Section 69081.

(o) To establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to subdivision (e).

(p) To submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized under this chapter, including advertising, promotion, marketing research, and production research.

(q) To administer any governmental program establishing quality standards for the pistachio industry upon request of an authorized agent of a governmental agency.

SEC. 32. The heading of Chapter 16 (commencing with Section 77001) of Division 22 of the Food and Agricultural Code is amended and renumbered to read:

CHAPTER 16.5. CALIFORNIA WALNUT COMMISSION

SEC. 33. Section 6714 of the Government Code, as added by Chapter 443 of the Statutes of 1989, is amended and renumbered to read:

6716. The Governor shall annually proclaim December 7 as "Pearl Harbor Day."

SEC. 34. Section 8684 of the Government Code, as added by Chapter 12 of the Statutes of 1989, 1989–90 First Extraordinary Session, is amended to read:

8684. (a) It is the intent of the Legislature:

(1) To provide the Governor with appropriate emergency powers in order to enable utilization of available emergency funding to provide guarantees for short-term, low interest loans to be made by commercial lending institutions, in connection with relief provided for the northern California earthquake of October 17, 1989, and incidents subsequent thereto, and resulting therefrom, in the affected area during the period of earthquake relief, for the purpose of supplying interim financing to enable small businesses to continue operations pending receipt of federal disaster assistance.

(2) That the Governor should utilize this authority to prevent business insolvencies and loss of employment in the area affected by the northern California earthquake of October 17, 1989.

(b) In addition to the allocations authorized by Section 8683, the Governor may allocate funds made available for the purposes of this chapter, in connection with relief provided for the northern California earthquake of October 17, 1989, and incidents subsequent thereto, and resulting therefrom, in the affected area during the period of earthquake relief, to the Small Business Expansion Fund for use by the Office of Small Business, pursuant to Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, to make allocations of funds to small business development corporations as follows:

(1) To provide guarantees for short-term low interest loans to be made by commercial lending institutions for the purpose of providing interim financing to enable small businesses that have suffered actual physical damage or significant economic losses, as a result of the natural disaster for which funding under this section is

made available, to continue or resume operations pending receipt of loans made or guaranteed by the federal Small Business Administration. The maximum amount of any loan guarantee funded under this section shall not exceed one hundred fifty thousand dollars ($150,000). The loan guarantee shall not exceed 95 percent of the loan amount, except that the loan guarantees may be for 100 percent of the loan amount if the applicant can demonstrate that access to business records pertinent to the loan application has been precluded by official action prohibiting necessary reentry into the affected business premises. The loan so guaranteed shall be due and payable 12 months from the date the loan is made or on the date the proceeds of a loan made or guaranteed by the federal Small Business Administration with respect to the same damage or loss are made available to the borrower, whichever first occurs. Nothing in this section shall preclude the lender from charging reasonable administrative fees in connection with the loan.

(2) To provide guarantees for short-term low-interest loans, as provided in Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, for small farms, nurseries, and agriculture-related enterprises which have suffered actual physical damage or significant economic injury as a result of the northern California earthquake of October 17, 1989, or its subsequent aftershocks, but which are types of businesses that are ineligible for loans or loan guarantees of the federal Small Business Administration or Farmers Home Administration provided in connection with that disaster. Loan guarantees funded pursuant to this section shall not exceed one hundred fifty thousand dollars ($150,000), shall be extended only to those individuals or entities which are unable to obtain credit elsewhere and are intending to continue in the same business enterprise, shall not exceed 80 percent of production losses, shall not exceed 100 percent of structural losses, and shall not exceed 95 percent of the loan amount. The maximum term of the loan guarantee shall be 12 months. To the extent possible the terms of the loan guarantees, including requirements respecting the terms of the underlying loans, shall be consistent with loan-guarantee assistance provided to nonagricultural businesses in response to that natural disaster by the federal Small Business Administration.

(c) Allocations pursuant to this section shall, for purposes of all provisions of law, be deemed to be for extraordinary emergency or disaster response operation costs incurred by the Office of Small Business.

SEC. 35. Section 8878.16 of the Government Code is amended to read:

8878.16. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words have the following meanings:

(a) "Bond" means a bond, authorized by Sections 8878.20 and 8878.25, that is tax exempt under both state and federal law, or a bond

that is tax exempt under state law and taxable under federal law.

(b) "Committee" means the California Earthquake Safety and Housing Rehabilitation Finance Committee.

(c) "Department" means Department of Housing and Community Development.

(d) "Fund" means the Housing Rehabilitation Loan Fund established by Section 50661 of the Health and Safety Code.

(e) "Local agency" means any city, city and county, or county.

SEC. 36. Section 15029 of the Government Code is amended to read:

15029. (a) The Crack Down Task Force Program is hereby created within the Department of Justice with responsibility for establishing, conducting, supporting, and coordinating crack down task forces composed of state and local law enforcement agencies targeting the investigation and apprehension of the Colombian cartel-street gang cocaine networks.

(b) The department shall coordinate all investigations undertaken by task forces operating under the Crack Down Task Force Program with all local agencies having law enforcement responsibilities within the jurisdictions involved. The department shall also solicit participation by appropriate federal agencies with task force investigations whenever possible.

The department's Bureaus of Narcotic Enforcement, Forensic Services, and Organized Crime and Criminal Intelligence shall provide staffing and logistical support for the crack down task forces, supplying special agents, criminal intelligence analysts, forensic experts, financial auditors, equipment, and funding to the task forces as needed.

(c) Local law enforcement agencies participating in the Crack Down Task Force Program shall be reimbursed by the department for personnel overtime costs and equipment or supplies required for task force activities.

(d) Beginning January 1, 1991, the report required pursuant to Section 15028 shall include a separate report on the activities of the Crack Down Task Force Program.

SEC. 37. Section 16369.1 of the Government Code is amended to read:

16369.1. An interim Office of Long-Term Care shall be established in the Governor's office to draw up the transitional and organizational action plan to be followed by the department pending approval by the Legislature as provided for in Section 16369. The action plan shall provide for an orderly phasing in of existing programs and administration on both the state and local level. To assist the interim office in the development of the transitional and organizational action plan, the Governor shall appoint a state-level advisory task force composed of technical experts in the provision of health and social services to the populations to be served. Representation shall include, but not be limited to, elderly and functionally impaired consumers, state and county government, area

agencies on aging, and private nonprofit organizations serving the populations under the act adding this section to the code. The Office of Long-Term Care shall utilize available data and long-term care expertise available as a result of long-term care demonstration projects in operation throughout the state in determining the cost associated with the proposed state-local structure.

Based on the findings of the office, the Governor shall submit an action plan to the Legislature which shall include, but not be limited to, the following:

(a) Costs and benefits to programs funded fully or in part with state or county funds, including programs for which there is a county match, as well as costs and benefits associated with local agency startup and the provision of client services.

(b) A multiyear phasein plan for implementing this act.

(c) The impact to the General Fund that would result from the implementation in accordance with the phasein timetable recommended by the task force and other relevant factors resulting from that implementation.

(d) A fiscal proposal recommending appropriations for the 1984–85 fiscal year for the Department of Aging and Long-Term Care, from the budget of the State Department of Health Services, and the State Department of Social Services.

SEC. 38. Section 26299.073 of the Government Code is amended to read:

26299.073. Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the premiums, if any, due upon call and redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(a) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

(b) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

SEC. 39. Section 26299.077 of the Government Code is amended to read:

26299.077. (a) Bonds issued pursuant to this chapter do not constitute a debt or liability of the state or of any other public agency, other than the county regional justice facilities financing agency issuing the bonds, or a pledge of the faith and credit of the state or of any other public agency, other than the issuing agency, but shall be payable solely from the funds provided therefor. All of the bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California or any public agency, other than the _____ County

Regional Justice Facilities Financing Agency, is pledged to the payment of the principal of or interest on this bond."

(b) The issuance of bonds pursuant to this chapter does not in any manner obligate the state or any other public agency thereof to levy, or to pledge, any form of taxation therefor or to make any appropriation for their payment.

SEC. 40. Section 53602.1 of the Government Code is repealed.

SEC. 41. The heading of Article 5 (commencing with Section 55110) of Chapter 1 of Part 2 of Division 2 of Title 5 of the Government Code is amended to read:

Article 5. Sewage Treatment and Disposal Plants

SEC. 43. Section 73486 of the Government Code is amended to read:

73486. Whenever a reference is made to a numbered salary range in any section of this article, the schedule of biweekly salaries found in the salary resolution for the County of San Joaquin in effect shall apply.

SEC. 44. Section 74193 of the Government Code is amended to read:

74193. The administrator shall appoint:

(a) One hundred thirty-one deputy clerks, who shall be associate court process clerks, and who shall each receive a biweekly salary at a rate specified in range 836 for level II.

(b) Fifteen deputy clerks, who shall be senior court process clerks and who shall each receive a biweekly salary at a rate specified in range 938.

(c) One half-time deputy clerk, who shall be an associate court process clerk and who shall receive a biweekly salary at a rate specified in range 836 for level II.

(d) Twenty-five deputy clerks, who shall be courtroom clerks and who shall each receive a biweekly salary at a rate specified in range 1197 for level II and in range 1067 for level I.

(e) Four deputy clerks who shall be court process specialists and who shall each receive a biweekly salary at a rate specified in range 989A.

(f) Two deputy clerks, who shall be departmental data-processing technicians II and who shall each receive a biweekly salary at a rate specified in range 1031.

(g) Eight deputy clerks, who shall be account clerks I/II and who shall each receive a biweekly salary at a rate specified in range 915.

(h) Two deputy clerks, who shall be account clerks III and who shall each receive a biweekly salary at a rate specified in range 989.

(i) Two deputy clerks, who shall be legal secretaries II and who shall each receive a biweekly salary at a rate specified in range 989.

(j) One part-time deputy clerk, who shall be a senior court process clerk and who shall receive a biweekly salary at a part-time rate specified in range 938.

(k) One deputy clerk, who shall be a senior personnel clerk and who shall receive a biweekly salary at a rate specified in range 973.

SEC. 45. Section 77200 of the Government Code is amended to read:

77200. (a) Except as provided in subdivisions (b) and (c) with respect to newly created judgeships, the Controller shall transmit to each option county quarterly payments on the block grant owing to that county based upon the number of judges, court commissioners, and referees in the county, as determined pursuant to Section 77202, multiplied each quarter by the sum of fifty-three thousand dollars ($53,000), as adjusted pursuant to Section 77201.

(b) With respect to judgeships authorized by Chapter 1211 of the Statutes of 1987, for any new judgeship in excess of 10 new judgeships for a particular option county, if the county's average quarterly appropriation for court operations for the 1987–88 fiscal year, as determined by the Controller, divided by the number of judges, referees, and court commissioners determined pursuant to Section 77202 for that year (the base year quarterly cost per judge), exceeds the applicable sum specified in subdivision (a) as adjusted pursuant to Section 77201 (the base year quarterly block grant), instead of the quarterly multiplier determined pursuant to subdivision (a), the quarterly multiplier for each of these new judgeships shall be:

(1) For the first four quarters following the creation of that judgeship, the base year quarterly cost per judge.

(2) For the second four quarters thereafter, the applicable sum specified in subdivision (a) as adjusted pursuant to Section 77201 (the standard current quarterly block grant), plus 75 percent of the difference between the base year quarterly cost per judge and the base year quarterly block grant.

(3) For the third four quarters thereafter, the standard current quarterly block grant, plus 50 percent of the difference between the base year quarterly cost per judge and the base year quarterly block grant.

(4) For the fourth four quarters thereafter, the standard current quarterly block grant, plus 25 percent of the difference between the base year quarterly cost per judge and the base year quarterly block grant.

For purposes of this subdivision, a judgeship created upon the adoption of a resolution by the board of supervisors shall be deemed to be created in the quarter in which the resolution is adopted.

(c) With respect to judgeships authorized by statutes which take effect on or after January 1, 1990, if the county's average quarterly appropriation for court operations for the fiscal year preceding the effective date of that statute, as determined by the Controller, reduced by the average quarterly amount of funds, if any, received during that fiscal year pursuant to Section 77207, divided by the number of judges, referees, and court commissioners determined pursuant to Section 77202 for that year (the base year quarterly cost per judge), exceeds the quarterly multiplier for the fiscal year in

which the statute takes effect (the comparison year quarterly block grant), instead of the quarterly multiplier determined pursuant to subdivision (a), the quarterly multiplier for each of these new judgeships shall be:

(1) For the first fiscal year following the effective date of the statute authorizing that judgeship, the base year quarterly cost per judge.

(2) For the second fiscal year thereafter, the applicable sum specified in subdivision (a) for each quarter of the current fiscal year as adjusted pursuant to Section 77201 (the standard current quarterly block grant), plus 75 percent of the difference between the base year quarterly cost per judge and the comparison year quarterly block grant.

(3) For the third fiscal year thereafter, the standard current quarterly block grant, plus 50 percent of the difference between the base year quarterly cost per judge and the comparison year quarterly block grant.

(4) For the fourth fiscal year thereafter, the standard current quarterly block grant, plus 25 percent of the difference between the base year quarterly cost per judge and the comparison year quarterly block grant.

(d) Quarterly payments shall be transmitted by the Controller on or before the 15th day of that quarter, except that payments for the quarter beginning January 1, 1989, shall be made no later than February 15, 1989.

SEC. 46. The heading of Article 4 (commencing with Section 754) of Chapter 5 of Division 3 of the Harbors and Navigation Code, as amended by Chapter 1341 of the Statutes of 1970, is amended and renumbered to read:

Article 2.5. Stored Vessels

SEC. 47. Section 199.715 of the Health and Safety Code is amended to read:

199.715. The state department may approve up to 35 pilot projects to provide housing and food for homeless persons who have AIDS or ARC. The state department may provide funding to a selected number of these pilot projects. All approved pilot projects shall enter into a contract with the state department, which shall define the conditions for participation as pilot projects. Notwithstanding Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2, an approved pilot project shall not be required to be licensed if it is organized and operated for the purpose of providing room and board to homeless persons with AIDS or ARC and it is not organized and operated to directly provide medical or nursing care.

The pilot projects shall maintain a written agreement for referral and acceptance of residents with at least one registered nurse case manager, general acute care hospital, and licensed home health

agency. The contract requirements for the pilot projects shall include the criteria and protocols which the state department determines are appropriate to assure that the health, safety, and welfare of residents are protected. The state department may additionally provide for or enter into a contract for evaluation and assessment related to the approved pilot projects.

This chapter shall not preempt the application of any local zoning requirements in effect on January 1, 1990, to a residential AIDS shelter pilot project for homeless persons with AIDS or ARC.

The implementation of these pilot projects 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.

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 date on which it becomes inoperative and is repealed.

SEC. 48. Section 436.45 of the Health and Safety Code, as amended by Chapter 429 of the Statutes of 1978, is amended and renumbered to read:

436.43. No insurance shall be provided for loans under this chapter until a statewide system of health facility planning has been established so that all hospitals as defined in Section 1250 and facilities licensed by the State Department of Health Services pursuant to Chapter 1 (commencing with Section 1200) to Chapter 2.5 (commencing with Section 1440), inclusive, except for Chapter 2.2 (commencing with Section 1340) of Division 2, have been reviewed by an area health planning agency prior to licensure. No insurance shall be provided for a loan under this chapter for a hospital or facility unless it has been finally approved through the statewide system of health facility planning.

SEC. 49. Section 441.21 of the Health and Safety Code is amended and renumbered to read:

443.15. Intermediate care facilities/developmentally disabled-habilitative, as defined in subdivision (e) of Section 1250, are not subject to this part.

SEC. 50. Section 441.22 of the Health and Safety Code is amended and renumbered to read:

443.16. Intermediate care facilities/developmentally disabled—nursing, as defined in subdivision (h) of Section 1250, are not subject to this part.

SEC. 51. Section 1349.2 of the Health and Safety Code is amended to read:

1349.2. (a) A health care service plan operated by any city, county, city and county, public entity, or political subdivision which satisfies all of the following criteria is exempt from Section 1349:

(1) Provides services only to its employees, their dependents, and retirees, but not to the general public.

(2) Provides funding for the program.

(3) Provides that providers are not at risk in contracting

arrangements, that is, that the reimbursement system is on a fee-for-service basis.

(b) The Senate Office of Research shall conduct a study of the factors which should be considered by the Legislature in determining whether to create an exemption, and the scope of the exemption, under this chapter for public entities and political subdivisions operating a health care service plan for their employees, retired employees, and their dependents which satisfies all of the conditions set forth in subdivision (a). The study shall include, but not be limited to, evaluation of all of the following:

(1) An estimate of the number of public entity and political subdivision plans which would be affected by an exemption.

(2) The fiscal impact of licensure on public entities and political subdivisions and upon the regulatory authority, including any increase in public entity or regulatory authority employees needed to comply with licensure.

(3) The impact, if any, on services offered by the plan due to costs associated with regulation, including any unintended results of creating barriers to health care.

(4) Any potential concomitant increase in taxes in order for public entities and political subdivisions to provide health care services.

(5) If the plans are not licensed and monitored, any risks of financial insolvency, inadequate benefit packages, inadequate education of enrollees of plans concerning available benefits and services, appeal rights, or of economic stability of the plan; and any adverse impact on the ability of enrollees of plans to obtain quality health care, including barriers to accessibility and claims payment practices.

(6) The impact on the private sector, including physicians, allied health providers, and hospitals.

(7) The impact on health care service plans from any increase in enrollee assessments to fund the regulatory authority's efforts in licensing public entities and political subdivisions.

(8) The impact and effect of competition on private sector plans from licensed public entities and political subdivisions.

(9) Any constitutional barriers precluding the operation of a health care service plan by a joint exercise of powers agreement pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

In conducting the study, the Senate Office of Research shall seek assistance and input from all interested parties. The study shall be completed and submitted to the Legislature no later than December 31, 1991.

(c) It is the intent of the Legislature that the Senate Office of Research study shall provide relevant factual and legal information which may assist the Legislature in determining whether, and to what extent, a permanent exemption for public entity and political subdivision employee plans would be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons

regulated under this chapter, and the extent to which regulation of those plans is not essential to the purposes of this chapter.

It is therefore the intent of the Legislature that the temporary exemption in subdivision (a) is to alleviate the necessity for the Department of Corporations to commence enforcement actions against those plans solely because they are unlicensed during this period.

(d) During the time period of temporary exemption, any public entity or political subdivision operating a health care service plan pursuant to subdivision (a) shall not engage in any actions which are contrary to Sections 1378 and 1379 and shall not reduce or change current benefits except in accordance with collective bargaining agreements existing on the effective date of this section.

(e) This section shall remain in effect only until December 31, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before December 31, 1992, deletes or extends that date.

SEC. 52. Section 1422.7 of the Health and Safety Code, as added by Chapter 1625 of the Statutes of 1984, is repealed.

SEC. 53. Section 1432.1 of the Health and Safety Code, as added by Chapter 1625 of the Statutes of 1984, is repealed.

SEC. 54. Section 1534.5 of the Health and Safety Code, as added by Chapter 1625 of the Statutes of 1984, is repealed.

SEC. 55. Section 1569.335 of the Health and Safety Code is amended to read:

1569.335. The department shall notify affected placement agencies and the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, whenever the department substantiates that a violation has occurred which poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license. If the violation is appealed by the facility within 10 days, the department shall only notify placement agencies of the violation when the appeal has been exhausted. If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation which indicates that the case is still under appeal. The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint.

SEC. 56. Section 1596.861 of the Health and Safety Code is amended to read:

1596.861. (a) Each child day care facility licensed under this chapter, Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients.

(b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) include, but are not limited to, those contained in the following:

(1) Newspaper or magazine.
(2) Consumer report.
(3) Announcement of intent to commence business.
(4) Telephone directory yellow pages.
(5) Professional or service directory.
(6) Radio or television commercial.

SEC. 57. The heading of Chapter 3.95 (commencing with Section 1599.60) of Division 2 of the Health and Safety Code, as added by Chapter 625 of the Statutes of 1987, is amended and renumbered to read:

CHAPTER 3.93. ADMISSION CONTRACTS FOR LONG-TERM HEALTH CARE FACILITIES

SEC. 58. Section 1797.63 of the Health and Safety Code, as added by Chapter 1134 of the Statutes of 1989, is repealed.

SEC. 59. Section 1797.112 of the Health and Safety Code, as added by Chapter 1134 of the Statutes of 1989, is repealed.

SEC. 60. Section 1797.192 of the Health and Safety Code, as added by Chapter 1134 of the Statutes of 1989, is repealed.

SEC. 61. Section 1797.192 of the Health and Safety Code, as added by Chapter 1111 of the Statutes of 1989, is amended and renumbered to read:

1797.193. (a) By July 1, 1992, existing firefighters in this state shall complete a course on the nature of sudden infant death syndrome taught by experts in the field of sudden infant death syndrome. All persons who become firefighters after January 1, 1990, shall complete a course on this topic as part of their basic training as firefighters. The course shall include information on the community resources available to assist families who have lost children to sudden infant death syndrome.

(b) For purposes of this section, the term "firefighter" has the same meaning as that specified in Section 1797.182.

(c) When the instruction and training are provided by a local agency, a fee shall be charged sufficient to defray the entire cost of the instruction and training.

SEC. 62. Section 4010.9 of the Health and Safety Code, as added by Chapter 823 of the Statutes of 1989, is repealed.

SEC. 63. Section 11965.7 of the Health and Safety Code is amended to read:

11965.7. In those counties electing to apply for funds under this article, both the county administrator and the county office of education shall designate units with primary responsibility for planning and administering the School-Community Primary Prevention Program. These units shall work together on a cooperative basis to review and develop the school and community

program plan and applications for funds. The joint application of school-community primary drug abuse prevention plan prepared by the county administrator and the county office of education shall be submitted to the local primary prevention advisory committee, as established pursuant to subdivision (b) of Section 11966, for review and comment. After this review, the school-community primary drug abuse prevention plan shall be submitted to the state as a separate and distinct part of a county drug plan. Applications for funding shall be reviewed by an external review selection committee. This committee shall be composed of no less than six members appointed by the State Department of Alcohol and Drug Programs. Half of the appointees shall be educators recommended by the State Department of Education and currently working in the field of public education. The committee shall review applications and make recommendations for grant awards.

SEC. 64. The heading of Part 3 (commencing with former Section 14001) of Division 12 of the Health and Safety Code is repealed.

SEC. 65. Section 18029.6 of the Health and Safety Code, as added by Chapter 1228 of the Statutes of 1984, is repealed.

SEC. 66. Section 25150.3 of the Health and Safety Code is amended to read:

25150.3. The department shall adopt emergency regulations pursuant to Section 11346.1 of the Government Code which ensure protection for the public and the environment concerning hazardous waste held or handled at transfer facilities.

SEC. 67. Section 25199.7 of the Health and Safety Code is amended to read:

25199.7. (a) At least 90 days before filing an application for a land use decision for a specified hazardous waste facility project with a local agency, the proponent shall file a notice of intent to make the application with the Office of Permit Assistance in the Office of Planning and Research and with the applicable city or county. The notice of intent shall specify the location to which the notice of intent is applicable and shall contain a complete description of the nature, function, and scope of the project. The Office of Permit Assistance shall immediately notify affected state agencies of the notice of intent. The local agency shall publish a notice in a newspaper of general circulation in the area affected by the proposed project, shall post notices in the location where the proposed project is located, and shall notify, by a direct mailing, the owners of contiguous property, as shown in the latest equalized assessment roll. A notice of intent filed with a local agency shall be accompanied by a fee which shall be set by the local agency in an amount equal to the local agency's cost of processing the notice of intent and carrying out the notification requirements of this subdivision. A notice of intent is not transferable to a location other than the location specified in the notice and shall remain in effect for one year from the date it is filed with a local agency or until it is withdrawn by the proponent,

whichever is earlier.

(b) A notice of intent is not effective and a proponent may not file an application for a land use decision for a specified hazardous waste facility project with a local agency unless the proponent has first complied with subdivision (a).

(c) Within 90 days after a notice of intent is filed with the Office of Permit Assistance pursuant to subdivision (a), the office shall convene a public meeting in the affected city or county to inform the public on the nature, function, and scope of the proposed specified hazardous waste facility project and the procedures that are required for approving applications for the project.

(d) The legislative body of the affected local agency shall appoint a seven member local assessment committee to advise it in considering an application for a land use decision for a specified hazardous waste facility project. The members of the local assessment committee may be appointed at any time after the notice of intent is filed with the local agency but shall be appointed not later than 30 days after the application for the land use decision is accepted as complete by the local agency. The local agency shall charge the project proponent a fee to cover the local agency's costs of establishing and convening the local assessment committee. The fee shall accompany the application for a land use decision.

(1) The membership of the committee shall be broadly constituted to reflect the makeup of the community, and shall include three representatives of the community at large, two representatives of environmental or public interest groups, and two representatives of affected businesses and industries. Members of local assessment committees selected pursuant to this subdivision shall have no direct financial interest, as defined in Section 87103 of the Government Code, in the proposed specified hazardous waste facility project.

(2) The local assessment committee shall, as its primary function, advise the appointing legislative body of the affected local agency of the terms and conditions under which the proposed hazardous waste facility project may be acceptable to the community. To carry out this function, the local assessment committee shall do all of the following:

(A) Enter into a dialogue with the proponent for the proposed hazardous waste facility project to reach an understanding with the proponent on both of the following:

(i) The measures that should be taken by the proponent in connection with the operation of the proposed hazardous waste facility project to protect the public health, safety, and welfare, and the environment of the city or county.

(ii) The special benefits and remuneration the facility proponent will provide the city or county as compensation for the local costs associated with the operation of the facility.

(B) Represent generally, in meetings with the project proponent, the interests of the residents of the city or county and the interests

of adjacent communities.

(C) Receive and expend any technical assistance grants made available pursuant to subdivision (g).

(D) Adopt rules and procedures which are necessary to perform its duties.

(E) Advise the legislative body of the city or county of the terms, provisions, and conditions for project approval which have been agreed upon by the committee and the proponent, and of any additional information which the committee deems appropriate. The legislative body of the city or county may use this advice for its independent consideration of the project.

(3) The legislative body of the affected jurisdiction shall provide staff resources to assist the local assessment committee in performing its duties.

(4) A local assessment committee established pursuant to this subdivision shall cease to exist after final administrative action by state and local agencies has been taken on the permit applications for the project for which the committee was convened.

(e) A local agency shall notify the Office of Permit Assistance within 10 days after an application for a land use decision for a specified hazardous waste facility project is accepted as complete by the local agency and, within 60 days after receiving this notice, the Office of Permit Assistance shall convene a meeting of the lead and responsible agencies for the project, the proponent, the local assessment committee, and the interested public, for the purpose of determining the issues which concern the agencies that are required to approve the project and the issues which concern the public. The meeting shall take place in the jurisdiction where the application has been filed.

(f) Following the meeting required by subdivision (e), the proponent and the local assessment committee appointed pursuant to subdivision (d) shall meet and confer on the specified hazardous waste facility project proposal for the purpose of establishing the terms and conditions under which the project will be acceptable to the community.

(g) (1) If the local assessment committee finds that it requires assistance and independent advice to adequately review a proposed hazardous waste facility project, it may request technical assistance grants from the local agency to enable the committee to hire a consultant. The committee may use technical assistance grant funds made available to it to hire a consultant to do either, or both, of the following:

(A) Assist the committee in reviewing and evaluating the application for the project, the environmental documents prepared for the project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and any other documents, materials, and information that are required by a public agency in connection with the application for a land use decision or a permit.

(B) Advise the local assessment committee in its meetings and discussions with the facility proponent to seek agreement on the terms and conditions under which the project will be acceptable to the community.

(2) The local agency shall require the proponent of the proposed hazardous waste facility project to pay a fee equal to the amount of any technical assistance grant provided the local assessment committee under paragraph (1). The funds received as a result of the imposition of the fee shall be used to make technical assistance grants exclusively for the purposes described in paragraph (1).

(3) The local agency shall deposit any fee imposed pursuant to paragraph (2) in an account created in the city or county treasury, maintain records of all expenditures from the account, and return any unused funds and accrued interest to the project proponent upon completion of the review of the proposed hazardous waste facility project.

(h) If the local assessment committee and the proponent cannot resolve any differences through the meetings, the Office of Permit Assistance may assist in this resolution pursuant to Section 25199.4.

(i) This section applies only to a specified hazardous waste facility project.

SEC. 68. Section 25356.1 of the Health and Safety Code is amended to read:

25356.1. (a) Except as provided in subdivision (g), the department, or, if appropriate, the regional water quality control board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.

(b) A potentially responsible party may request the department or the regional water quality control board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356 if the department or the State Water Resources Control Board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the state board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional water quality control board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(c) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. Sec. 300.61 et seq.), and any amendments thereto, and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional water quality control board shall consider scientific data and reports which

may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses. The department or regional water quality control board shall consider the extent to which remedial action measures are available which use, as a principal element, treatment that significantly reduces the volume, toxicity, or mobility of the hazardous substances, as opposed to remedial actions which do not use this treatment. The department or regional water quality control board shall not select remedial action measures which use offsite transport and disposal of untreated hazardous substances or contaminated materials if practical and cost-effective treatment technologies are available.

(4) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost effectiveness of alternative remedial action measures. In evaluating the cost effectiveness of proposed alternative remedial action measures, the department or regional water quality control board shall consider, to the extent possible, the total short-term and long-term costs of these actions and shall use, as a major factor, whether the deferral of a remedial action will result, or is likely to result, in a rapid increase in cost or in the hazard to public health or the environment posed by the site. Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.

(6) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated hazardous substances as opposed to treatment of the hazardous substances to remove or reduce its volume, toxicity, or mobility prior to disposal.

(d) A remedial action plan prepared or approved pursuant to this section shall include a statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted to, or prepared by, the department or the regional water quality control board for a particular site. The statement shall also include an evaluation of the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (c) and shall set forth the reasons for rejection of alternative removal and remedial actions. The statement shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this

chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional water quality control board shall prepare or approve a draft remedial action plan and shall do all of the following:

(1) Circulate the draft plan for at least 30 days for public comment.

(2) Notify affected local and state agencies of the removal and remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial action plan. The department or the regional water quality control board shall also post notices in the location where the proposed removal or remedial action would be located and shall notify, by direct mailing, the owners of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.

(3) Hold one or more meetings with the lead and responsible agencies for the removal and remedial actions, the potentially responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information which is necessary to address the issues which concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial actions, and a description of the proposed removal and remedial actions.

(4) Comply with Section 25358.7.

(e) After complying with subdivision (d), the department or the regional water quality control board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional water quality control board shall then issue the final remedial action plan.

(f) A potentially responsible party named in the final remedial action plan issued by the department or the regional water quality control board may seek judicial review of the final remedial action plan pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final plan is issued. The filing of a petition seeking judicial review of a final remedial action plan shall not stay any removal or remedial action specified in the final plan.

For purposes of judicial review, the court shall uphold the final remedial action plan if the plan is based upon substantial evidence available to the department or the regional water quality control board, as the case may be. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction, including, but not limited to, enjoining the expenditure of funds pursuant to paragraph (2) of subdivision (b) of Section 25385.6.

(g) (1) This section does not require the department or a regional water quality control board to prepare a remedial action plan if conditions present at a site present an imminent or substantial endangerment to the public health and safety or to the environment.

(2) A remedial action plan is not required pursuant to subdivision (a) if all of the following apply:

(A) The department, a regional water quality control board, or a responsible party takes a removal action at a site listed pursuant to Section 25356 to prevent, minimize, or mitigate damage that may otherwise result from a release or threatened release of a hazardous substance.

(B) The total cost of the removal action is less than four hundred thousand dollars ($400,000).

(C) The department, after appropriate testing and analysis, determines that the removal action has adequately abated conditions at the site and the site may be removed from the list established pursuant to Section 25356.

(3) The department may waive the requirement that a remedial action plan meet the requirements specified in subdivision (c) if all of the following apply:

(A) The responsible party adequately characterizes the hazardous substance conditions at a site listed pursuant to Section 25356.

(B) The responsible party submits to the department, in a form acceptable to the department, all of the following:

(i) A description of the techniques and methods to be employed in excavating, storing, handling, transporting, treating, and disposing of materials from the site.

(ii) A listing of the alternative remedial measures which were considered by the responsible party in selecting the proposed removal action.

(iii) A description of methods that will be employed during the removal action to ensure the health and safety of workers and the public during the removal action.

(iv) A description of prior removal actions with similar hazardous substances and with similar public safety and environmental considerations.

(C) The department determines that the remedial action plan provides protection of human health and the environment at least equivalent to that which would be provided by a remedial action plan prepared in accordance with subdivision (c).

(D) The total cost of the removal action is less than two million dollars ($2,000,000).

(4) For purposes of this section, the cost of a removal action includes the cleanup or removal of released hazardous substances from the environment or the taking of other actions which are necessary to prevent, minimize, or mitigate damage which may otherwise result from a release or threatened release, as further defined by Section 9601 (23) of Title 42 of the United States Code.

(5) Paragraphs (2) and (3) of this subdivision do not apply to a removal action paid from the Hazardous Substance Cleanup Fund.

(h) Article 2 (commencing with Section 13320), Article 3 (commencing with Section 13330), Article 5 (commencing with

Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to any action or failure to act by a regional water quality control board pursuant to this section.

SEC. 69. Section 25920 of the Health and Safety Code, as amended by Chapter 948 of the Statutes of 1989, is amended and renumbered to read:

25919.2. "Building," as used in this chapter, means all or part of any "public and commercial building," as defined in Section 2642 of Title 15 of the United States Code, as that section reads on January 1, 1989, except that "building" shall not mean residential dwellings.

SEC. 70. Section 25921 of the Health and Safety Code, as added by Chapter 1502 of the Statutes of 1988, is amended and renumbered to read:

25919.3. "Employee," as used in this chapter, means every person who is required or directed by any employer, to engage in any employment, and who performs that employment other than on a casual or incidental basis in any building subject to this chapter, or any person contracting with an owner who is required or directed to perform services, other than on a casual or incidental basis, in any building subject to this chapter.

SEC. 71. Section 25922 of the Health and Safety Code, as added by Chapter 1502 of the Statutes of 1988, is amended and renumbered to read:

25919.4. "Employee's representative," as used in this chapter, means an employee's union representative, a member of the employee's immediate family, a nonrelated member of the employee's household, and an employee's attorney or a person with power of attorney.

SEC. 72. Section 25923 of the Health and Safety Code, as added by Chapter 1502 of the Statutes of 1988, is amended and renumbered to read:

25919.5. "Owner," as used in this chapter, means an owner, lessee, sublessee, or agent of the owner of a building or part of a building, including, but not limited to, the state or another public entity.

SEC. 73. Section 25923.1 of the Health and Safety Code is amended and renumbered to read:

25919.6. "Agent," as used in this chapter, means a person acting in accordance with Title 9 (commencing with Section 2295) of Part 4 of Division 3 of the Civil Code for purposes of managing, operating, leasing, or performing a similar function with respect to a building subject to this chapter.

SEC. 74. Section 25924 of the Health and Safety Code is amended and renumbered to read:

25919.7. Any owner who knowingly or intentionally fails to comply with this chapter, or who knowingly or intentionally presents any false or misleading information to employees or any other owner, is guilty of a misdemeanor punishable by a fine of up to one thousand

dollars ($1,000) or up to one year in the county jail, or both. This section shall become operative on July 1, 1989.

SEC. 75. Section 40405 of the Health and Safety Code, as amended by Chapter 1546 of the Statutes of 1988, is amended and renumbered to read:

40408. As used in this chapter, "plan" means the south coast district air quality management plan.

SEC. 76. Section 40469.5 of the Health and Safety Code is amended to read:

40469.5. Following the adoption of those portions of the plan that comply with the California Clean Air Act of 1988 (Chapter 1568, Statutes of 1988) and the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and are adequate to attain state ambient air quality standards, the state board shall make all reasonable efforts to assist the south coast district by providing any additional information required to achieve an approvable state implementation plan, including convening joint public workshops on air quality monitoring, modeling, control technologies, and other matters coming within the state board's responsibility under law, and assisting the south coast district in researching and testing transportation control measures.

SEC. 77. Section 40716 of the Health and Safety Code, as amended by Chapter 160 of the Statutes of 1988, is amended and renumbered to read:

40719. (a) Except as provided in subdivision (d), every district board which has adopted an emergency episode plan for ozone or oxidant may conduct hearings on the adoption and implementation of intermittent transportation controls which shall be applicable, upon order of the district board, during periods in the months of June to October, inclusive, when an air pollution emergency, as defined in the Air Pollution Emergency Plan of the state board, has been called.

(b) The district board, in cooperation with representatives of industry, transportation, and local governments in the district, shall conduct the hearings pursuant to subdivision (a) to define and designate the necessary transportation controls. The district board shall prepare and submit to the Legislature within one year a report on the findings from the hearings.

(c) The district board shall incorporate its findings and determinations into the district air quality management plan.

(d) Notwithstanding subdivisions (a) to (c), inclusive, in that portion of the bay district which is subject to the jurisdiction of the Metropolitan Transportation Commission, the commission, at the request of the bay district, shall undertake those duties and responsibilities set forth in subdivisions (a) to (c), inclusive, that relate to the conduct of hearings and the adoption and implementation of intermittent transportation controls and that relate to making recommended findings and determinations for the bay district for incorporation into the bay district's air quality

management plan.

SEC. 78. Section 40920 of the Health and Safety Code is amended to read:

40920. (a) Each district with severe air pollution shall, to the extent necessary to meet the requirements of Section 40913, include the following measures in its attainment plan:

(1) All measures required for moderate and serious nonattainment areas, as specified in Sections 40918 and 40919.

(2) Transportation control measures to achieve an average during weekday commute hours of 1.5 or more persons per passenger vehicle by 1999, and no net increase in vehicle emissions after 1997.

(3) Measures to achieve the use of a significant number of low-emission motor vehicles by operators of motor vehicle fleets.

(4) Measures sufficient to reduce overall population exposure to ambient pollutant levels in excess of the standard by at least 25 percent by December 31, 1994, 40 percent by December 31, 1997, and 50 percent by December 31, 2000, based on average per capita exposure and the severity of the exceedences, so as to minimize health impacts, using the average level of exposure experienced during 1986 through 1988 as the baseline.

(b) A district's air pollution is severe if the state board finds and determines that the district cannot attain and maintain the applicable state standard until after December 31, 1997, or is unable to identify an attainment date.

SEC. 79. The heading of Chapter 10 (commencing with Section 40950) of Part 3 of Division 26 of the Health and Safety Code is amended and renumbered to read:

CHAPTER 11. SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT

SEC. 80. Section 41062 of the Health and Safety Code is amended to read:

41062. (a) The strategy shall include a clean fuels program to provide, to the extent feasible and necessary to carry out the purposes of this chapter, a schedule for the introduction of cleaner burning alternative fuels and low-emission motor vehicles or control measures providing equivalent emission reductions within the district, a program to encourage the establishment of the necessary infrastructure to support the introduction of cleaner burning fuels, and demonstration programs and incentives to encourage the purchase of clean fueled vehicles and the use of cleaner burning fuels.

(b) In developing the clean fuels program, the district shall consider projects utilizing methanol fuel; fuel cells; liquid petroleum gas; natural gas, including compressed natural gas; combination fuels; synthetic fuels; electricity, including electric vehicles; ethanol; and other cleaner burning fuels.

(c) Nothing in this section authorizes the Sacramento district to

require the sale or supply of any specific motor vehicle fuel.

SEC. 81. Section 42301.9 of the Health and Safety Code is amended to read:

42301.9. For the purposes of Sections 42301.6 to 42301.8, inclusive:

(a) "School" means any school used for purposes of the education of children in kindergarten or any of grades 1 to 12, inclusive.

(b) "Air contaminant" has the same meaning as provided in Section 39013.

(c) "Administering agency" means an administering agency as defined in subdivision (c) of Section 25532.

SEC. 82. Section 50668.5 of the Health and Safety Code is amended to read:

50668.5. For the purpose of providing financial assistance pursuant to this chapter utilizing bond proceeds transferred to the Housing Rehabilitation Loan Fund pursuant to paragraph (2) of subdivision (a) of Section 53130 and paragraph (2) of subdivision (b) of Section 53130 and Sections 8878.20 and 8878.21 of the Government Code, deferred payment loans made with these funds shall be subject to all of the following special provisions, which shall prevail over conflicting provisions of this chapter:

(a) (1) Applications for fund commitments shall be accepted by the department at any time. Fund commitments shall be based on a ranking of applications, which shall occur at least once every three months until there are insufficient funds available to commit according to this ranking. In making this ranking for rental housing developments, priority shall be given to those projects which (A) serve the greater number of eligible households as defined in Section 50105 with the lowest incomes, (B) provide the greater number of units with three or more bedrooms, (C) are located in areas where the housing need is great as determined by the department, taking into consideration, among other factors, low vacancy rates, high market rents, long waiting lists for subsidized housing, the stock of substandard housing, and the potential loss of subsidized rental housing to market-rate housing through demolition, foreclosure, or subsidy termination, (D) complement the implementation of an existing housing program, (E) maximize private local and other funding sources, and (F) maximize long-term benefits for eligible households, as defined in Sections 50079.5 and 50105. Subparagraph (B) above shall not apply to applications for fund commitments submitted pursuant to Section 50670 or to any application for residential hotels and motels. In making this ranking for owner-occupied housing, priority shall be given to those applications which (A) serve the greater number of eligible households, as defined in Section 50105, with the lowest income, (B) provide the greater number of units with three or more bedrooms, (C) are located in areas where the need for rehabilitation is great as determined by the department, taking into consideration, among other factors, the amount of substandard owner-occupied housing, low vacancy rates, and limited availability of affordable housing, (D)

complement the implementation of an existing housing program, and (E) maximize available and appropriate private, local, and other funding sources. The department shall also evaluate the capability of the sponsor to rehabilitate, own, and manage the rental housing development or the capability of the applicant for funding for owner-occupied housing to implement the proposed program.

(2) Loans for rental housing developments may be reviewed, approved, and funded by the department directly to the sponsor. In these cases, the department shall ensure that the sponsor notifies the local legislative body of the sponsor's loan application prior to a funding award. Loans to owner-occupants may be made by local public entities or nonprofit corporations which have received fund commitments from the department. The department shall ensure that the local public entity or nonprofit corporation applying for fund commitments for loans to owner-occupants notifies the local legislative body of the application prior to a funding award. When the department certifies a local public entity or nonprofit corporation as being capable of making these loans, the department shall delegate responsibility for reviewing and approving these loans to the local public entity or nonprofit corporation. If it is determined by the department that the local public entity or nonprofit corporation is no longer capable of making or managing these loans, the department may, at its sole discretion, revoke that delegation of responsibility or cancel the funding commitment to the local public entity or nonprofit corporation, or both. The department's regulations shall include procedures and standards for certification and decertification.

(3) A sponsor may apply for loans for one or more rental housing developments.

(b) (1) A housing development may utilize any combination of federal, state, local, and private financial resources necessary to make the development affordable, for the term of the state's regulatory agreement, to the eligible households. Notwithstanding the requirements of Section 50663, rental housing developments and owner-occupied units assisted by the program may be located anywhere in the state.

(2) In the case of nonprofit sponsors, loans for rental housing developments, when combined with other indebtedness against the property shall not exceed 100 percent of the after-rehabilitation value of the property, as determined by an appraisal of the property conducted pursuant to guidelines established in regulations of the department.

(3) The maximum loan amounts per unit established in regulations pursuant to Section 50670 shall also apply to rental housing developments rehabilitated or acquired and rehabilitated pursuant to paragraph (1) of subdivision (a) of Section 50661, except that there shall not be a maximum loan amount established per project. These dollar limitations may be increased by the department, as necessary, in high-cost areas of the state or where the

correction of severe health and safety defects or the provisions of handicapped accessibility standards necessitate greater assistance. The department, by regulation, may specify unit loan limits for loans made for owner-occupied housing and the circumstances under which it may grant exceptions to, or variances from, these limits.

(4) (A) Loans made to sponsors of rental housing developments for acquisition and rehabilitation shall be for terms of not less than 30 years. Loans made to sponsors of rental housing developments for rehabilitation shall be only for terms of not less than 20 years. However, the term shall not exceed the useful life of the rental housing development for which the loan is made. The sponsor may elect to begin to repay the loan at any time in accordance with the prepayment plan established in accordance with paragraph (6), if it is determined by the department, that the sponsors can continue to maintain the rents at levels affordable to eligible households.

(B) The term of the loan and the time for repayment may be extended by the department for additional 10-year terms as long as the rental housing development is operated in a manner consistent with the regulatory agreement and the sponsor requires an extension in order to continue to operate in a manner consistent with this chapter.

(5) (A) In the case of loans made for rental housing developments, eligible costs shall include those costs relating to (i) real property acquisition, including refinancing of existing debt to the extent necessary to reduce debt service to a level consistent with the provision of affordable rents and the fiscal integrity of the project; (ii) rehabilitation or reconstruction, including the conversion of nonresidential structures to residential use; (iii) general property improvements which are necessary to correct unsafe, unhealthy, or unsanitary conditions, including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping, and purchase or installation of central air conditioning; (iv) necessary and related onsite improvements; (v) reasonable administrative expenses in connection with the planning and execution of the project, as determined by the department; (vi) reasonable consulting costs; (vii) rent-up costs; (viii) seismic rehabilitation improvements; and (ix) any other costs of rehabilitation authorized by the department. "Rent-up costs," as used in this section, means costs incurred while a unit is on the housing market but not rented to its first tenant. "Seismic rehabilitation improvements," as used in this section, means improvements which are designed to increase seismic structural safety in accordance with a plan developed by a civil engineer, a structural engineer, or an architect for a particular building that has been identified as hazardous by the city or county in which the building is located in accordance with the criteria established by the Seismic Safety Commission pursuant to Section 8875.1 of the Government Code or in accordance with a previously adopted city

or county seismic safety ordinance adopted pursuant to Section 19163.

(B) In the case of loans made for owner-occupied housing, eligible costs shall include those costs relating to (i) rehabilitation work expenses; (ii) cost of room additions necessary to alleviate overcrowding; (iii) costs of general property improvements including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping and purchase or installation of central air conditioning, to the extent that they are necessary to correct unsafe, unhealthy, or unsanitary conditions; (iv) costs related to necessary architectural, engineering, and other technical consultants; (v) costs of preliminary reports, title policies, credit reports, appraisal reports, and fees for recording documents related to the department's loans; (vi) costs of building permits and other government fees; and (vii) if in conjunction with other rehabilitation work, costs for improvements related to making the housing accessible to the handicapped.

(C) Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating costs, and Sections 53131 and 53133, the department may set aside or use any amounts available in the fund to establish a rental housing development default reserve for the purpose of curing or avoiding a sponsor's defaults on the terms of any loan or other obligation which jeopardizes the financial integrity of a rental housing development or the department's security in the rental housing development. The payment or advance of funds by the department pursuant to this subparagraph shall be solely within the discretion of the department and no sponsor shall be entitled to or have any right to payment of these funds. Funds advanced pursuant to this subparagraph shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

(D) Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating cost, or Sections 53131 and 53133, the department may set aside or use proceeds in the fund in an amount not to exceed 3 percent of the amount of encumbrances for loans for owner-occupied housing to establish an owner-occupied housing default reserve for the purpose of curing or avoiding an owner's default on the terms of any loan or other obligation which jeopardizes the department's security in the owner-occupied housing. The payment or advance of funds by the department pursuant to this subparagraph shall be solely within the discretion of the department, and no homeowner shall be entitled to, or have any right to payment of, these funds. Funds advanced pursuant to this subparagraph shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand. Interest payments from loans for owner-occupied housing shall be allocated by the department into this reserve to replace the allocated proceeds until the percent established by the

department is achieved solely with interest payments.

(6) Upon request of the sponsor, the department may permit repayment of a sponsor's loan on the basis of net cash flow. The department shall develop a prepayment plan in conjunction with the sponsor which will ensure the maintenance of affordable rents and the fiscal integrity of the rental housing development. As an incentive to encourage the prepayment of loans, the department may permit the sponsor to retain one-half of the net cash flow. The department shall determine the method for calculating net cash flow, which may include a factor for excess debt service coverage or a return on cash investment to the sponsor.

(7) If a loan is made pursuant to this chapter for both seismic rehabilitation improvements and other eligible rehabilitation costs, only those costs related to the seismic rehabilitation improvements shall be counted and included for purposes of the fund reservation made by Section 8878.20 of the Government Code.

(c) Principal and accumulated interest is due and payable upon completion of the term of the loan.

(1) "Maintain affordable rent levels," as used in this section, means rents may be automatically increased by the sponsor on an annual basis pursuant to an inflation index to be determined by the department. The inflation index shall reflect anticipated annual changes in rental housing development operating costs from a base year when the rents are initially established. Any sponsor may appeal to the department for a greater adjustment in rents necessary to ensure the fiscal integrity of the rental housing development. If the department does not respond within 60 days, the request shall be deemed approved. A 30-day written notice shall be given to each eligible household prior to an adjustment in the amount of rent.

(2) Upon prior written approval by the department, a sponsor may set income limits for incoming tenants at a level below the limit specified in Section 50079.5. If a tenant's income exceeds this income limit established by the sponsor, but does not exceed the limit specified in Section 50079.5, that fact alone shall neither constitute cause for the tenant's eviction, nor be a violation of the sponsor's loan agreement. If a tenant's income exceeds the income limit for a household specified in Section 50079.5, the tenant shall be required to vacate the assisted unit within six months from the date of income recertification or notice to the sponsor of an increase in income over the permissible income level. That period may be extended by the sponsor for an additional six-month period in high cost rental areas with low vacancy rates, as determined by the department. Any vacant units shall be rented to eligible households until the required residency by eligible households is attained.

In the case of limited equity housing cooperatives, this paragraph shall apply, except that tenants whose incomes, upon recertification, exceed the limit specified in Section 50079.5 shall not be required to vacate their units. Instead, and upon six months' notice, these tenants shall be required to pay rent in an amount equal to the market rate

rent for comparable units, as determined by the department. When a tenant's income exceeds the limit specified in Section 50079.5, the next available membership share for occupancy in a comparable unit shall be sold to a household with an income at or below this limit.

(3) When operating income as defined by the department is greater than operating expenses, debt service, deposits required for reserve accounts, payments pursuant to paragraph (6) of subdivision (b) if elected by the sponsor, approved annual distributions, and any other disbursements approved by the department, these excess funds shall be paid into an account established in the fund. Funds in this account shall be appropriated to the department for use to assist rental housing developments funded pursuant to this section with proceeds of bonds issued pursuant to Chapter 27 of the Statutes of 1988, Chapter 30 of the Statutes of 1988, or Chapter 48 of the Statutes of 1988, subject to the following requirements:

(A) Excess funds in the account shall be allocated first into the rental housing development default reserve established pursuant to subparagraph (C) of paragraph (5) of subdivision (b). The balance of this default reserve shall not exceed the maximum level of funding established by regulations adopted by the department.

(B) After the rental housing development default reserve is fully funded with these excess funds, the department shall use all additional excess funds in the account for payment of either unforeseen capital improvements, the cost of which would jeopardize the fiscal integrity and affordability of a rental housing development, or to further reduce rents in a rental housing development. The department may adopt regulations which specify the procedures and standards for application for, and use of, these funds. Those payments used for capital improvements shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

(d) Prior to disbursement of any funds for loans to rental housing developments made pursuant to this section, the department shall enter into a regulatory agreement with the sponsor in accordance with subdivision (d) of Section 50670, except that (1) the term of the regulatory agreement shall be for the original term of the loan and the agreement shall be binding upon the sponsor and successors in interest upon sale or transfer of the rental housing development or prepayment of the loan and (2) a nonprofit sponsor, other than a governmental agency, may maintain a debt service coverage ratio of 115 percent and distribute earnings in an amount no greater than 8 percent of the nonprofit sponsor's actual investment. The regulatory agreement also shall contain provisions requiring annual inspections and review of year-end fiscal audits and related reports by the department and provisions to maintain affordable rent levels to serve eligible households.

(e) Where loans will be used in conjunction with federal or other housing assistance or tax credits and a conflict exists between the other state or federal program requirements and those of this

chapter with respect to the calculation of rents, the requirements of the Deferred Payment Rehabilitation Loan Program and the Special User Housing Rehabilitation Program may be waived only to the extent necessary to permit federal or other state financial participation or eligibility for tax credits.

(f) "Sponsor," for purposes of this section, has the same meaning as defined in subdivision (c) of Section 50669.

(g) The department shall adopt emergency regulations to implement this chapter and to amend the maximum loan amounts per unit established in regulations adopted pursuant to Section 50670, with respect to loans made with funding subject to this section. The regulations shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning or purposes of Section 11346.1 of the Government Code.

Notwithstanding conflicting provisions of this chapter, the department may elect to make these regulations additionally applicable until July 1, 1990, to all other deferred payment loan programs authorized by this chapter, except the programs specified in Sections 50662.5 and 50671, if the department determines that the uniformity achieved thereby will avoid significant additional administrative costs.

(h) For purposes of this section, "rental housing development" means a single family house or a multifamily structure or structures containing two or more dwelling units, including efficiency units. One or more of the dwelling units in a rental housing development shall be rented or leased or otherwise occupied as a primary residence by a person or household who is not the owner of the structure or structures. For the purposes of this section, motels operated pursuant to subdivision (b) of Section 50669, residential hotels, group or congregate homes, and limited equity housing cooperatives are rental housing developments. Except for motels, the limitations concerning types of residents and minimum number of units set forth in subdivision (b) of Section 50669 shall not apply.

(i) "Affordable rent" for the purposes of this section shall be established by the department in the regulations authorized by subdivision (g). However, the initial rents shall be established by the department based on a designated family size for each unit size, and those initial rents shall not exceed 30 percent of 50 percent of the area median income adjusted by that designated family size for units restricted to occupancy by very low income households; or 30 percent of 60 percent of area median income adjusted by that designated family size for units restricted to occupancy by low-income households. In establishing affordable rent levels, the department shall make provision in its regulations for projects serving physically and mentally handicapped persons.

SEC. 83. Section 50803 5 of the Health and Safety Code, as added by Chapter 888 of the Statutes of 1987, is repealed.

SEC. 84. Section 676.2 of the Insurance Code, as added by

Chapter 1321 of the Statutes of 1986, is amended to read:

676.2. (a) This section applies only to policies of commercial insurance which are subject to Section 675.5.

(b) After a policy has been in effect for more than 60 days, or if the policy is a renewal, effective immediately, no notice of cancellation shall be effective unless it complies with Section 677.2 and it is based on the occurrence, after the effective date of the policy, of one or more of the following:

(1) Nonpayment of premium, including payment due on a prior policy issued by the insurer and due during the current policy term covering the same risks.

(2) A judgment by a court or an administrative tribunal that the named insured has violated any law of this state or of the United States having as one of its necessary elements an act which materially increases any of the risks insured against.

(3) Discovery of fraud or material misrepresentation by either of the following:

(A) The insured or his or her representative in obtaining the insurance.

(B) The named insured or his or her representative in pursuing a claim under the policy.

(4) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by the named insured or his or her representative, which materially increase any of the risks insured against.

(5) Failure by the named insured or his or her representative to implement reasonable loss control requirements which were agreed to by the insured as a condition of policy issuance or which were conditions precedent to the use by the insurer of a particular rate or rating plan, if the failure materially increases any of the risks insured against.

(6) A determination by the commissioner that the loss of, or changes in, an insurer's reinsurance covering all or part of the risk would threaten the financial integrity or solvency of the insurer. A certification made under penalty of perjury to the commissioner by an officer of the insurer of the loss of, or change in, reinsurance and that the loss or change will threaten the financial integrity or solvency of the insurer if the cancellation of the policy is not permitted shall constitute such a determination unless disapproved by the commissioner within 30 days of the filing. There shall be no extensions to this 30-day period.

(7) A determination by the commissioner that a continuation of the policy coverage would place the insurer in violation of the laws of this state or the state of its domicile or that the continuation of coverage would threaten the solvency of the insurer.

(8) A change by the named insured or his or her representative in the activities or property of the commercial or industrial enterprise which results in a material added risk, a materially increased risk or a materially changed risk, unless the added,

increased, or changed risk is included in the policy.

(c) After a policy has been in effect for more than 60 days, or if the policy is a renewal, effective immediately upon renewal, no increase in the rate upon which the premium is based, reduction in limits, or change in the conditions of coverage shall be effective during the policy period unless a written notice is mailed or delivered to the named insured and the producer of record at the mailing address shown on the policy, at least 30 days prior to the effective date of the increase, reduction, or change. Subdivision (a) of Section 1013 of the Code of Civil Procedure is applicable if the notice is mailed. The notice shall state the effective date of, and the reasons for, the increase, reduction, or change.

That increase, reduction, or change shall not be effective unless based upon one of the following reasons:

(1) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards by the named insured which materially increase any of the risks or hazards insured against.

(2) Failure by the named insured to implement reasonable loss control requirements which were agreed to by the insured as a condition of policy issuance or which were conditions precedent to the use by the insurer of a particular rate or rating plan, if the failure materially increases any of the risks insured against.

(3) A determination by the commissioner that loss of or changes in an insurer's reinsurance covering all or part of the risk covered by the policy would threaten the financial integrity or solvency of the insurer unless the change in the terms or conditions or rate upon which the premium is based is permitted.

(4) A change by the named insured in the activities or property of the commercial or industrial enterprise which results in a materially added risk, a materially increased risk, or a materially changed risk, unless the added, increased, or changed risk is included in the policy.

(d) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Title 2 of Division 3 of the Government Code) shall not apply to a determination pursuant to paragraph (6) or (7) of subdivision (b) or paragraph (3) of subdivision (c). The commissioner shall charge an insurer who requests a determination pursuant to paragraph (6) or (7) of subdivision (b) a fee sufficient to recover the costs of making the determination. If the commissioner does not act upon a request by a insurer to cancel or change a policy pursuant to those provisions within 30 days, the request shall be deemed to be approved.

(e) This section shall not prohibit an insurer from increasing a premium during the policy period, if the increase is calculated in accordance with the current rating manual of the insurer, and is justified by a physical change in the insured property or by a change in the activities of the commercial or industrial enterprise which

materially increases any of the risks insured against.

(f) This section shall not apply to a transfer of a policy without a change in its terms or conditions or the rate upon which the premium is based between insurers which are members of the same insurance group.

SEC. 85. Section 676.2 of the Insurance Code, as amended by Chapter 195 of the Statutes of 1988, is amended and renumbered to read:

676.7. (a) No admitted insurer, licensed to issue and issuing homeowner's or tenant's policies, as described in Section 122, shall (1) fail or refuse to accept an application for that insurance or to issue that insurance to an applicant or (2) cancel that insurance, solely on the basis that the applicant or policyholder is engaged in foster home activities in a licensed foster family home or licensed small family home, as defined in Section 1502 of the Health and Safety Code.

(b) Coverage under policies described in subdivision (a) with respect to a foster child shall be the same as that provided for a natural child. However, unless specifically provided in the policy, there shall be no coverage expressly provided in the policy for any bodily injury arising out of the operation or use of any motor vehicle, aircraft, or watercraft owned or operated by, or rented or loaned to, any foster parent.

(c) It is against public policy for a policy of homeowner's or tenant's insurance subject to this section to provide liability coverage for any of the following losses:

(1) Claims of a foster child, or a parent, guardian, or guardian ad litem thereof, of a type payable by the Foster Family Home and Small Family Home Insurance Fund established by Section 1527.1 of the Health and Safety Code, regardless of whether the claim is within the limits of coverage specified in Section 1527.4 of the Health and Safety Code.

(2) An insurer shall not be liable, under a policy of insurance subject to this section, to any governmental agency for damage arising from occurrences peculiar to the foster-care relationship and the provision of foster-care services.

(3) Alienation of affection of a foster child.

(4) Any loss arising out of licentious, immoral, or sexual behavior on the part of a foster parent intended to lead to, or culminating in, any sexual act.

(5) Any loss arising out of a dishonest, fraudulent, criminal, or intentional act.

(d) There shall be no penalty for violations of this section prior to January 1, 1987.

(e) Insurers may provide a special endorsement to a homeowners' or tenants' policy covering claims related to foster care that are not excluded by subdivision (c).

(f) Insurers may provide by a separate policy for some or all of the claims related to foster care that are excluded by subdivision (c).

SEC. 86. The heading of Article 5 (commencing with Section

755) of Chapter 1 of Part 2 of Division 1 of the Insurance Code, as added by Chapter 1099 of the Statutes of 1989, is amended and renumbered to read:

Article 5.1. Unlawful Practices

SEC. 87. Section 11512.15 of the Insurance Code, as amended by Chapter 1398 of the Statutes of 1989, is amended and renumbered to read:

11512.24. On or after January 1, 1989, every individual or group nonprofit hospital service plan contract which is issued, amended, or renewed, and which includes coverage for mastectomy and prosthetic devices and reconstructive surgery incident to the mastectomy described in Section 11512.10 shall also be deemed to provide coverage for mammography for screening or diagnostic purposes upon the referral of the patient's physician.

Nothing in this section shall be construed to require an individual or group policy to cover the surgical procedure known as mastectomy or to prevent application of deductible or copayment provisions contained in the policy or plan, nor shall this section be construed to require that coverage under an individual or group policy be extended to any other procedures.

As used in this section, "prosthetic devices" means and includes the provision of initial and subsequent prosthetic devices pursuant to an order of the patient's physician.

SEC. 88. Section 169 of the Penal Code, as added by Chapter 1411 of the Statutes of 1970, is repealed.

SEC. 89. Section 1463.8 of the Penal Code, as added by Chapter 979 of the Statutes of 1983, is repealed.

SEC. 90. Section 12286 of the Penal Code is amended to read:

12286. Any person who lawfully acquired an assault weapon before June 1, 1989, and wishes to use it in a manner different than specified in subdivision (c) of Section 12285, any person who lawfully acquired an assault weapon between June 1, 1989, and January 1, 1990, and wishes to keep it after January 1, 1990, or any person who wishes to acquire an assault weapon after January 1, 1990, shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

SEC. 91. Chapter 2.6 (commencing with Section 12320) of Title 2 of Part 4 of the Penal Code, as added by Chapter 949 of the Statutes of 1982, is repealed.

SEC. 92. Section 12322 of the Penal Code is amended to read:

12322. Nothing in this chapter shall prohibit the sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his or her employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued

pursuant to Section 12305.

SEC. 93. Section 14340 of the Public Resources Code is amended to read:

14340. (a) The Legislature finds and declares that the Urban Services and Restoration Corps (USRC), a component of the California Conservation Corps, is an innovative approach to diverting young people in urban areas from the detrimental influences of unlawful drug activity and gang violence. The corps assists those who join through the disciplined work projects that they perform according to Section 14300 and by providing opportunties through education programs.

(b) In carrying out this division, public housing authorities are encouraged to work with the corps and to recognize the corps as an innovative program when seeking funds under the Anti-Drug Abuse Act of 1988 (Public Law 100-690), which provides for grants by the Secretary of Housing and Urban Development for innovative programs to reduce drug-related crime, including recreational, vocational, education, and other constructive alternatives for youth.

SEC. 94. Chapter 4.9 (commencing with Section 25390) of Division 15 of the Public Resources Code is repealed.

SEC. 95. Section 33216 of the Public Resources Code is amended to read:

33216. This division shall become inoperative on July 1, 1995, and, as of January 1, 1996, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1996, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 96. The heading of Division 26 (commencing with Section 36000) of the Public Resources Code is amended and renumbered to read:

DIVISION 27. OCEAN RESOURCES MANAGEMENT

SEC. 97. Section 1075 of the Public Utilities Code, as added by Chapter 1240 of the Statutes of 1989, is amended and renumbered to read:

1078. Every highway common carrier and cement carrier earning over three hundred fifty thousand dollars ($350,000) in annual gross operating revenue shall, under oath, file annually a report indicating the number, classification, and compensation of all employees and owner-operator drivers hired or engaged during the reporting period. The annual financial report required by the commission from highway common carriers and cement carriers shall include this information. The commission shall submit a copy of the report to the administrator of the corporation's workers' compensation self-insurance plan if the corporation is self-insured, or to the carrier's workers' compensation insurer if the carrier's workers' compensation protection is provided by a policy or policies of insurance. The commission shall not be obligated to undertake an independent investigation of the adequacy of workers'

compensation insurance coverage based on the information contained in the report, if the carrier has complied with Section 1064.

SEC. 98. Section 2891.1 of the Public Utilities Code is amended to read:

2891.1. (a) Notwithstanding Section 2891, a telephone corporation selling or licensing lists of residential subscribers shall not include the telephone number of any subscriber assigned an unlisted or unpublished access number.

(b) A subscriber may waive all or part of the protection provided by this section through written notice to the telephone corporation.

(c) This provision does not apply to the provision of telephone numbers to the following parties for the purposes indicated:

(1) To a collection agency, to the extent disclosures made by the agency are supervised by the commission, exclusively for the collection of unpaid debts.

(2) To an emergency service agency for responding to a 911 call or communicating an imminent threat to life or property.

(3) To a lawful process issued under state or federal law.

(4) To a telephone corporation providing service between service areas for the provision to the subscriber of telephone service between service areas, or to third parties for the limited purpose of providing billing services.

(5) To the commission pursuant to its jurisdiction and control over telephone and telegraph corporations.

(d) Every deliberate violation of this section is grounds for a civil suit by the aggrieved subscriber against the telephone or telegraph corporation and its employees responsible for the violation.

(e) For purposes of this section, "unpublished or unlisted access number" means a telephone, telex, teletex, facsimile, computer modem, or any other code number which is assigned to a subscriber by a telephone or telegraph corporation for the receipt of communications initiated by other telephone or telegraph customers; and which the subscriber has requested that the telephone or telegraph corporation keep in confidence.

SEC. 99. The heading of Chapter 4 (commencing with former Section 3521) of Part 6 of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 100. A heading is added immediately preceding Section 21001 as Part 10.7 (commencing with Section 21001) of Division 2 of the Revenue and Taxation Code, to read:

PART 10.7. TAXPAYERS' BILL OF RIGHTS

SEC. 101. Section 23456 of the Revenue and Taxation Code is amended to read:

23456. For purposes of this part, Section 56 of the Internal Revenue Code is modified as follows:

(a) (1) Section 56(a)(2) of the Internal Revenue Code, relating to mining exploration and development costs, shall apply only to

expenses incurred during income years beginning on or after January 1, 1988.

(2) Section 56(a)(5) of the Internal Revenue Code, relating to pollution control facilities, shall apply only to amounts allowable as a deduction under Section 24372.3.

(3) The amendments to Section 56(a)(6) of the Internal Revenue Code made by Section 10202(d) of Public Law 100-203, relating to minimum tax, shall not apply.

(b) Section 56(c)(2) of the Internal Revenue Code, relating to Merchant Marine Capital Construction Funds, shall not be applicable.

(c) (1) For purposes of applying Section 56(d) of the Internal Revenue Code, all references to "December 31, 1986," are modified to read "December 31, 1987," and all references to "January 1, 1987," are modified to read "January 1, 1988."

(2) (A) If there was a deferral of preference tax under former Section 23405 for any income year beginning before January 1, 1988, and the amount of the deferred tax has not been paid for any income year beginning before January 1, 1988, the amount of the net operating loss carryovers which may be carried to income years beginning after December 31, 1987, for purposes of this chapter, shall be reduced by the amount of the tax preferences attributable to the deferred tax which has not been paid.

(B) In the case of a net operating loss allowed to be carried forward under subdivision (e) of Section 24416, subparagraph (A) shall apply to the extent that such a loss would have resulted in a deferred tax under prior law.

(d) (1) Section 56(f)(2)(B) of the Internal Revenue Code, relating to adjustments for certain taxes, is modified to read: The amount determined under subparagraph (A) shall be appropriately adjusted to disregard any tax on or measured by income.

(2) The last sentence of Section 56(f)(2)(B) of the Internal Revenue Code, relating to taxes imposed by a foreign country or possession, shall not be applicable.

(3) Section 56(f)(2)(C)(i) of the Internal Revenue Code, relating to consolidated returns, is modified to substitute "combined report" for "consolidated return."

(4) Section 56(f)(2)(C)(ii) of the Internal Revenue Code, relating to treatment of dividends of related corporations, is modified to read: Adjusted net book income shall take into account only those dividends (or portions thereof) which have been included in net income for purposes of determining the regular tax.

(5) Section 56(f)(2)(F) of the Internal Revenue Code, relating to treatment of dividends from 936 corporations, shall not be applicable.

(6) Section 56(f)(2)(G) of the Internal Revenue Code, relating to rules for Alaska native corporations, shall not be applicable.

(7) With respect to corporations which are not subject to the tax imposed under Chapter 2 (commencing with Section 23101), the amount of interest income included in book income shall not exceed

the amount of interest income included for purposes of the regular tax.

(8) Appropriate adjustments shall be made to limit deductions from book income for interest expense in accordance with Sections 24344 and 24425.

(e) 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 on or after January 1, 1981, and 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.

(f) (1) Section 56(g)(4)(C) of the Internal Revenue Code, relating to disallowance of items not deductible in computing earnings and profits, shall be modified as follows:

(A) A deduction shall be allowed for amounts allowable as a deduction for purposes of the regular tax under Sections 24402, 24410, 24411, and 25106.

(B) Section 56(g)(4)(C)(ii) of the Internal Revenue Code, relating to special rule for 100 percent dividends, shall not be applicable.

(C) Section 56(g)(4)(C)(iii) of the Internal Revenue Code, relating to special rule for dividends from Section 936 companies, shall not be applicable.

(2) With respect to corporations which are not subject to the tax imposed under Chapter 2 (commencing with Section 23101), the amount of interest income included in the adjusted current earnings shall not exceed the amount of interest income included for purposes of the regular tax.

(3) Appropriate adjustments shall be made to limit deductions from adjusted current earnings for interest expense in accordance with the provisions of Sections 24344 and 24425.

SEC. 102. Section 43002.3 of the Revenue and Taxation Code is amended to read:

43002.3. (a) For purposes of the collection of the fees specified in subdivision (a) of Section 25174 of the Health and Safety Code and the fee imposed pursuant to Section 25174.1 of the Health and Safety Code, a determination by the State Department of Health Services that a waste is nonhazardous shall be effective only for wastes disposed of, or submitted for disposal, commencing with the month during which the State Department of Health Services receives a completed application for that determination.

(b) For purposes of the collection of the tax imposed pursuant to Section 25345 of the Health and Safety Code, a determination by the State Department of Health Services that a waste is nonhazardous shall commence with, and be effective for, wastes disposed of, or

submitted for disposal, during the calendar year, or portion thereof, as determined by the State Department of Health Services, in which the State Department of Health Services receives a completed application for that determination on or before November 30 of that calendar year. Applications filed in December shall be deemed received on the following January 1st.

SEC. 103. Section 43012 of the Revenue and Taxation Code is amended to read:

43012. For purposes of this part, "taxpayer" means any person liable for the payment of a fee or a tax specified in subdivision (a) of Section 25174 of the Health and Safety Code, or imposed by Section 25174.1 or 25345 of the Health and Safety Code.

SEC. 104. Section 43101 of the Revenue and Taxation Code is amended to read:

43101. Every person, as defined in Section 25118 of the Health and Safety Code, who is subject to the fees specified in subdivision (a) of Section 25174 of the Health and Safety Code or imposed pursuant to Section 25174.1 or 25345 of the Health and Safety Code shall register with the board on forms provided by the board.

SEC. 105. Section 486 of the Streets and Highways Code, as added by Chapter 742 of the Statutes of 1972, is repealed.

SEC. 106. Section 2549 of the Streets and Highways Code, as added by Chapter 1440 of the Statutes of 1985, is repealed.

SEC. 107. Section 644.5 of the Unemployment Insurance Code, as added by Chapter 395 of the Statutes of 1973, is repealed.

SEC. 108. Section 1264 of the Unemployment Insurance Code is amended to read:

1264. (a) Unemployment compensation benefits, extended duration benefits, and federal-state extended benefits shall not be payable on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services, or was permanently residing in the United States under color of law at the time the services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act.

(b) Any data or information required of individuals applying for benefits specified by subdivision (a) to determine whether these benefits are not payable to them because of their alien status shall be uniformly required from all applicants for these benefits.

(c) In the case of an individual whose application for benefits specified by subdivision (a) would otherwise be approved, no determination by the department, an administrative law judge, or the appeals board that these benefits to the individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence.

(d) If an alien presents evidence that the Immigration and

Naturalization Service has granted the alien employment authorization as a result of the alien's application for temporary residence status under the federal Immigration Reform and Control Act of 1986 (Public Law 99-603), pending a final determination on this application the department shall not do either of the following:

(1) Commence or continue to pursue any administrative or judicial action to collect benefits where there has been a final determination that these benefits have been overpaid or chargeable to the alien, because of the alien's immigration status at the time he or she performed the services compensated by his or her base period wages.

(2) Determine that the alien was overpaid benefits in the current benefit year or in any prior benefit year, if the basis for the determination is the assumption that because the alien is an applicant for temporary resident status he or she was not, while performing the services compensated by base period wages, lawfully admitted for permanent residence, lawfully present for purposes of performing the services that were compensated by his or her base period wages, or permanently residing in the United States under color of law.

(e) If the Immigration and Naturalization Service grants the application and adjusts the alien's status to that of lawful temporary resident, the department shall not take any action described in paragraph (1) of subdivision (d) or make any determination described in paragraph (2) of subdivision (d). If an alien is not in the status of being lawfully admitted for permanent residence, lawfully present for the purpose of performing the services compensated by his or her base period wages, or permanently residing in the United States under color of law, at the time the alien's lawful temporary permanent status terminates, then compensation shall not be payable on the basis of services performed by the alien after the termination.

(f) Nothing in subdivision (d) shall be construed to require the department to do any of the following:

(1) Repay any amounts collected under any present or past action as described in paragraph (1) of subdivision (d).

(2) Redetermine the eligibility for unemployment compensation benefits of any alien who the department originally determined to be ineligible because of the alien's status at the time he or she performed the services compensated by his or her base period wages and with respect to whom the determination has become final.

(3) Apply subdivision (d) or (e) retroactively.

(g) If the United States Secretary of Labor finds that subdivisions (d) and (e) are not in conformity with the federal Unemployment Tax Act, and effective as of the date that this finding becomes final, subdivisions (d), (e), and (f) shall be inoperative and of no legal force or effect.

(h) Unless subdivisions (d), (e), and (f) have earlier become inoperative and of no legal force or effect pursuant to a finding by

the Secretary of Labor under subdivision (g), subdivisions (d), (e), (f), and (g) shall remain in effect only until September 30, 1990, and as of that date shall become inoperative, unless a later enacted statute which is chaptered before September 30, 1990, deletes or extends that date. Notwithstanding this subdivision, however, the department shall not take any action to collect benefits from an individual when the collection against that individual was suspended pursuant to subdivision (e) prior to September 30, 1990.

SEC. 109. Section 1591 of the Unemployment Insurance Code, as added by Chapter 1146 of the Statutes of 1989, is amended and renumbered to read:

1590.5. It is the intent of the Legislature that the Budget Act for each fiscal year shall appropriate the entire amount available in the Contingent Fund during the fiscal year for the purposes of this article.

SEC. 110. Section 9613 of the Unemployment Insurance Code, as added by Chapter 1206 of the Statutes of 1973, is repealed.

SEC. 111. Section 13028 of the Unemployment Insurance Code is amended to read:

13028. (a) For purposes of this division (and so much of Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code as relates to this division) pensions, annuities, and other deferred income, as described in Section 3405 of the Internal Revenue Code, are wages and subject to withholding under this division.

(b) If an individual makes an election under Section 3405(a)(2) or Section 3405(b)(3) of the Internal Revenue Code not to have tax withheld, that election shall apply to withholding under this division, unless the individual elects, with the consent of the payer, to have those payments subject to withholding under this division. If an individual has not made an election under Section 3405(a)(2) or Section 3405(b)(3) of the Internal Revenue Code, that individual may elect to exclude those payments from withholding under this division. Elections provided in this subdivision shall be made pursuant to regulations of the director.

(c) Where Section 3405 of the Internal Revenue Code provides that tables or other computational procedures shall be prescribed by the Secretary of the Treasury, for the purposes of this division, any of the following amounts may be withheld, upon election of the payer:

(1) An amount determined by the method prescribed under Section 13020.

(2) A designated dollar amount as requested by the payee.

(3) Ten percent of the amount of federal withholding computed pursuant to Section 3405 of the Internal Revenue Code.

(d) Where the amount of withholding computed pursuant to subdivision (c) is less than ten dollars ($10) per month, the payer shall not be required to withhold that amount.

(e) This section shall not apply to pensions, annuities, and other

deferred income of payees with addresses outside this state, as shown on the most current records of the payer.

(f) The department shall, in consultation with the affected payers and payees, issue regulations to implement this section.

Those regulations shall provide for delay (but not beyond July 1, 1987) of the application of this section with respect to any payer or class of payers until such time as the payers are able to comply without undue hardship with the requirements of this section. In that case, no retroactive compliance shall be required.

SEC. 112. Section 2454 of the Vehicle Code is amended to read:

2454. (a) The authority for the management of the scene of an on-highway hazardous substance spill or disaster is vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the spill or disaster occurs. Responsibility for managing the scene of an on-highway hazardous substance spill or disaster shall continue until all emergency operations at the scene have been completed and order has been restored.

(b) Notwithstanding subdivision (a), the local governing body of a city, whether general law or chartered, which has jurisdiction over the location where a on-highway hazardous substance spill or disaster occurs may assign the authority for management of the scene of an on-highway hazardous substance spill or disaster on local streets and roads, other than freeways, to either the local law enforcement agency or the local fire protection agency. However, the department is responsible for the management of the scene of an on-highway hazardous substance spill or disaster on all highways where the department has primary traffic investigative authority. Any law enforcement agency having primary traffic investigative authority may enter into written agreements with other public agencies to facilitate management at the scene of an on-highway hazardous substance spill or disaster on local streets and roads other than freeways.

(c) For purposes of this section, "management of the scene of an on-highway hazardous substance spill or disaster" means coordination of operations which occur at the location of a hazardous substance spill or disaster. This coordinating function does not include how the specialized functions provided by the various other responding agencies are to be performed. The agency managing the scene of an on-highway hazardous spill or disaster shall consult with other response agencies at the scene to ensure that all appropriate resources are properly utilized. The agency managing the scene of an on-highway hazardous spill or disaster shall perform its coordinating function in a manner designed to minimize the risk of death or injury to other persons.

SEC. 113. Section 3016 of the Vehicle Code is amended to read:

3016. New motor vehicle dealers and other licensees under the jurisdiction of the board shall be charged fees sufficient to fully fund the board's activities other than those conducted pursuant to Section

9889.75 of the Business and Professions Code. The board may recover the direct cost of the activities required by Section 9889.75 of the Business and Professions Code by charging the Bureau of Automotive Repair a fee which shall be paid by the bureau with funds appropriated from the Certification Account in the Vehicle Inspection and Repair Fund. All fees shall be deposited, and held separate from other moneys, in the Motor Vehicle Account in the State Transportation Fund, and shall not be transferred to the State Highway Account pursuant to Section 42273.

The fees shall be available, when appropriated, exclusively to fund the board's activities. If at the conclusion of any fiscal year the amount of fees collected exceeds the amount of expenditures for this purpose during the fiscal year, the surplus shall be carried over into the succeeding fiscal year.

SEC. 114. Section 11610 of the Vehicle Code is amended to read:

11610. (a) If the lessor-retailer changes the location of its principal place of business or any branch office location in California, the lessor-retailer shall immediately upon making the change notify the department.

(b) If a lessor-retailer, for any reason, ceases to be in possession of its principal place of business or any branch office location, the lessor-retailer shall immediately notify the department, and shall deliver to the department the lessor-retailer license issued for the location, and, upon demand, all report of sale books in his or her possession.

(c) Any person licensed under this chapter who has closed his or her principal place of business may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that place of business, unless the person has notified the department in writing of another address where service may be made.

SEC. 115. Section 11710.2 of the Vehicle Code is amended to read:

11710.2. If a deposit is given instead of the bond required by Section 11710 both of the following apply:

(a) The director may order the deposit returned at the expiration of three years from the date an applicant for a dealer's license who has operated a business of selling vehicles under a temporary permit has ceased to do business, or three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(b) If either the director, department, or state is a defendant in any action instituted to recover all or any part of the deposit, or any action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in

processing claims against the deposit.

SEC. 116. Section 13353.7 of the Vehicle Code is amended to read:

13353.7. (a) Subject to subdivision (c) and except as provided in Section 13353.6 for persons who have commercial driver's licenses, if the driving record of the person whose driving privilege has been suspended under Section 13353.2 does not show that the person has been convicted of, or found to have committed a separate violation of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, which offense or occurrence occurred within seven years of the occasion in question, if the person subsequently enrolls in a program described in subdivision (b) of Section 23161 or subparagraph (A) of paragraph (4) of subdivision (b) of Section 23166, that person may apply to the department for a restricted driver's license limited to travel to and from the activities required by the program. After receiving proof of enrollment in the program, and if the person's driving record does not show an arrest, subsequent to the offense for which the person's driving privilege has been suspended under Section 13353.2, for a violation of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, notwithstanding Section 13551, the department shall, after review pursuant to Section 13557, suspend the person's privilege to operate a motor vehicle for 30 days and then issue the person a restricted driver's license if all of the following conditions are met:

(1) The program shall report any failure to participate in the program to the department and shall certify successful completion of the program to the department.

(2) The person gives proof of ability to respond in damages as defined in Section 16430.

(3) The restricted driver's license authorizes the operation of a motor vehicle only to and from the activities required under the program.

(4) If any person who has been issued a restricted license under this section fails at any time to participate in the program, the department shall revoke the restricted license immediately. The department shall give notice of the revocation under this paragraph in the same manner as prescribed in subdivision (b) of Section 13352.2, which is effective upon receipt by the person.

(5) On or after 60 days after the effective date of the restricted license, and upon notification of successful completion of the program, the department may issue an unrestricted driver's license to the person.

(b) If the court of jurisdiction in a criminal action arising out of the same offense orders the department to suspend or revoke the person's privilege to operate a motor vehicle or does not grant probation after conviction of that offense, notwithstanding subdivision (a), the department shall suspend or revoke the person's

privilege pursuant to the order of the court or Section 13352.

(c) This section does not apply to a person whose driving record shows that the person's driving privilege has previously been suspended pursuant to Section 13353 or 13353.2 or as a result of a conviction of a separate violation of Section 23103, as specified in Section 23103.5, Section 23152, or Section 23153, which offense occurred within seven years of the offense in question. This subdivision shall be operative only so long as a one-year suspension of the driving privilege for a second or subsequent occurrence or offense, with no restricted or hardship licenses permitted, is required by Section 408 or 410 of Title 23 of the United States Code.

SEC. 117. Section 13558 of the Vehicle Code is amended to read:

13558. (a) Any person, who has received a notice of an order of suspension of the person's privilege to operate a motor vehicle pursuant to Section 13353, 13353.2, 23157, or 23158.5 or a notice pursuant to Section 13557, may request a hearing on the matter pursuant to Article 3 (commencing with Section 14100) of Chapter 3, except as otherwise provided in this section.

(b) If the person wishes to have a hearing before the effective date of the order of suspension, the request for a hearing shall be made within 10 days of the receipt of the notice of the order of suspension. Notwithstanding Section 14107, the hearing shall be held at a place designated by the department as close as practicable to the place where the arrest occurred, unless the parties agree to a different location. The evidence at the hearing shall not be limited to the evidence presented at an administrative review pursuant to Section 13557, if any.

(c) (1) The only issues at the hearing of an order of suspension pursuant to Section 13353 shall be whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, the person was placed under arrest, the person refused or failed to complete the chemical test or tests after being requested by a peace officer, and, except for the persons described in Section 23157 who are incapable of refusing, the person had been told that his or her privilege to operate a motor vehicle would be suspended if he or she refused to submit to, and complete, the required testing. Notwithstanding Section 14106 or 14110, the period of suspension specified in Section 13353 shall not be reduced and, notwithstanding Section 14105.5, the effective date of the order of suspension shall not be stayed pending review at a hearing pursuant to this section.

(2) The only issues at the hearing of an order of suspension pursuant to Section 13353.2 shall be whether the person was driving or in actual physical control of a motor vehicle when the person had 0.10 percent or more, by weight, of alcohol in his or her blood. Notwithstanding Section 14106 or 14110, the period of suspension specified in Section 13353.3 shall not be reduced.

(d) (1) The department shall hold the administrative hearing before the effective date of the order of suspension if the request for

the hearing is received by the department on or before 15 days after the person's receipt of the service of the notice of the order of suspension pursuant to Section 13352.2 or 23158.5.

(2) If the request for an administrative hearing is received by the department after 15 days after the person's receipt of service, the department shall make its determination within 15 days of the department's receipt of the request for administrative hearing.

(e) A request for an administrative hearing does not stay the suspension of a person's privilege to operate a motor vehicle. However, the person's driving privilege shall be restored and his or her driver's license shall be returned upon appearance at the hearing, and shall be resuspended only upon a finding that the person's driving privilege was properly suspended and the license properly taken. If the department does not conduct an administrative hearing to make a determination after an administrative hearing within the time limit in paragraph (1) of subdivision (d), the department shall stay the effective date of the order of suspension pending the determination and, if the person's driver's license has been taken by the peace officer pursuant to Section 23157 or 23158.5, the department shall notify the person before the expiration date of the temporary permit issued pursuant to Section 23157 or 23158.5, or the expiration date of any previous extension issued pursuant to this subdivision, in a form that permits the person to establish to any peace officer that his or her privilege to operate a motor vehicle is not suspended.

(f) The department shall give written notice of its determination pursuant to Section 14111. If the department determines, upon a hearing of the matter, to suspend the person's privilege to operate a motor vehicle, notwithstanding the term of any temporary permit issued pursuant to Section 23157 or 23158.5, the temporary permit shall be revoked and the suspension of the person's privilege to operate a motor vehicle shall become effective five days after receipt by the person of the department's notification of that suspension. A notice which is mailed to the person is deemed received three days after mailing. If the department sustains the order of suspension, the department shall include notice that the person has a right to review by the court pursuant to Section 13559.

(g) A determination of facts by the department upon a hearing pursuant to this section shall have no collateral estoppel effect on a subsequent criminal prosecution and shall not preclude litigation of those same facts in the criminal proceeding.

SEC. 118. Section 22511.8 of the Vehicle Code is amended to read:

22511.8. (a) Any local authority, by ordinance or resolution, and any person in lawful possession of an offstreet parking facility may designate stalls or spaces in an offstreet parking facility owned or operated by the local authority or person for the exclusive use of any vehicle which displays either a distinguishing license plate or a placard issued pursuant to Section 22511.5. The designation shall be made by posting a sign as described in paragraph (1), and by either

of the markings described in paragraph (2) or (3):

(1) By posting immediately adjacent to, and visible from, each stall or space, a sign consisting of a profile view of a wheelchair with occupant in white on a blue background.

(2) By outlining or painting the stall or space in blue and outlining on the ground in the stall or space in white or suitable contrasting color a profile view depicting a wheelchair with occupant.

(3) By outlining a profile view of a wheelchair with occupant in white on a blue background, of the same dimensions as in paragraph (2). The profile view shall be located so that it is visible to a traffic enforcement officer when a vehicle is properly parked in the space.

(b) If posted in accordance with subdivision (d) or (e), the owner or person in lawful possession of a privately owned or operated offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) in the facility to the nearest public garage unless a distinguishing license plate or placard issued pursuant to Section 22511.5 is displayed on the vehicle.

(c) If posted in accordance with subdivision (d), the local authority owning or operating an offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) in the facility to the nearest public garage unless a distinguishing license plate or placard issued pursuant to Section 22511.5 is displayed on the vehicle.

(d) The posting required for an offstreet parking facility owned or operated either privately or by a local authority shall consist of a sign not less than 17 by 22 inches in size with lettering not less than one inch in height which clearly and conspicuously states the following: "Unauthorized vehicles not displaying distinguishing placards or license plates issued for physically handicapped persons will be towed away at owner's expense. Towed vehicles may be reclaimed at

_____ or by telephoning
(Address)

_____."
(Telephone number of local law enforcement agency)

The sign shall be posted in either of the following locations:

(1) Immediately adjacent to, and visible from, the stall or space.

(2) In a conspicuous place at each entrance to the offstreet parking facility.

(e) If the parking facility is privately owned and public parking is prohibited by the posting of a sign meeting the requirements of paragraph (1) of subdivision (a) of Section 22658, the requirements of subdivision (b) may be met by the posting of a sign immediately adjacent to, and visible from, each stall or space indicating that a vehicle not meeting the requirements of subdivision (a) will be removed at the owner's expense and containing the telephone

number of the local traffic law enforcement agency.

(f) This section does not restrict the privilege granted to disabled persons and disabled veterans by Section 22511.5.

SEC. 119. Section 23270 of the Vehicle Code is amended to read:

23270. (a) No person shall commence to tow any vehicle or other object on any vehicular crossing unless authorized to do so by the Department of Transportation and unless the towing is done by means of a tow truck as defined in Section 615. No person, other than a member of the California Highway Patrol or an employee of the Department of Transportation, shall, by means of pushing with another vehicle, propel any vehicle or object on a vehicular crossing. No person, other than an employee of the Department of Transportation, shall, on any vehicular crossing, tow any vehicle or other object except a vehicle or object constructed and designed to be towed by a vehicle of a type similar to that being used for this purpose.

(b) The California Transportation Commission shall, by regulation, establish the maximum towing fee which may be charged by any person authorized to tow a vehicle pursuant to subdivision (a). No authorized person shall charge a fee for towing a vehicle which is in excess of the maximum fee established by the California Transportation Commission.

(c) The Director of Transportation may grant a special permit to any person to tow any vehicle or object over and completely across any vehicular crossing when in his or her judgment the towing vehicle is so constructed and equipped that the vehicle or object can be towed across the vehicular crossing without endangering persons or property and without interrupting the orderly traffic across the vehicular crossing.

(d) The prohibitions of this section shall apply only on those vehicular crossings upon which a towing service is maintained by the Department of Transportation.

SEC. 120. Section 24607 of the Vehicle Code is amended to read:

24607. Every vehicle subject to registration under this code shall at all times be equipped with red reflectors mounted on the rear as follows:

(a) Every vehicle shall be equipped with at least one reflector so maintained as to be plainly visible at night from all distances within 350 to 100 feet from the vehicle when directly in front of the lawful upper headlamp beams.

(b) Every vehicle, other than a motorcycle, manufactured and first registered on or after January 1, 1965, shall be equipped with at least two reflectors meeting the visibility requirements of subdivision (a), except that trailers and semitrailers manufactured after July 23, 1973, which are less than 30 inches wide, may be equipped with one reflector which shall be mounted at or near the vertical centerline of the trailer. If the vehicle is equipped with two reflectors, they shall be mounted as specified in subdivision (d).

(c) Every motortruck having an unladen weight of more than

5,000 pounds, every trailer coach, every camp trailer, every vehicle, or vehicle at the end of a combination of vehicles, subject to subdivision (a) of Section 22406, and every vehicle 80 or more inches in width manufactured on or after January 1, 1969, shall be equipped with at least two reflectors maintained so as to be plainly visible at night from all distances within 600 feet to 100 feet from the vehicle when directly in front of lawful upper headlamp beams.

(d) When more than one reflector is required, at least one shall be mounted at the left side and one at the right side, respectively, at the same level. Required reflectors shall be mounted not lower than 15 inches nor higher than 60 inches, except that a tow truck, in addition to being equipped with the required reflectors, may also be equipped with two reflectors which may be mounted not lower than 15 inches nor higher than the maximum allowable vehicle height and as far forward as the rearmost portion of the driver's seat in the rearmost position. Additional reflectors of a type meeting requirements established by the department may be mounted at any height.

(e) Reflectors on truck tractors may be mounted on the rear of the cab. Any reflector installed on a vehicle as part of its original equipment prior to January 1, 1941, need not meet the requirements of the department provided it meets the visibility requirements of subdivision (a).

SEC. 121. Section 40002.1 of the Vehicle Code, as added by Chapter 881 of the Statutes of 1984, is repealed.

SEC. 122. Section 1764.2 of the Welfare and Institutions Code, as added by Chapter 624 of the Statutes of 1989, is repealed.

SEC. 123. Section 4681.2 of the Welfare and Institutions Code, as added by Chapter 380 of the Statutes of 1978, is repealed.

SEC. 124. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing

with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation.

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. These services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself or herself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part.

(g) "Conservatorship investigation" means investigation by an

agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350).

(h) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means either of the following:

(1) A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(2) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone.

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility.

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) "Court," unless otherwise specified, means a court of record or a justice court.

SEC. 125. Section 9726.1 of the Welfare and Institutions Code, as added by Chapter 1625 of the Statutes of 1984, is repealed.

SEC. 126. Section 9732 of the Welfare and Institutions Code, as added by Chapter 1625 of the Statutes of 1984, is repealed.

SEC. 127. Section 12304.1 of the Welfare and Institutions Code, as added by Chapter 504 of the Statutes of 1979, is repealed.

SEC. 128. Section 14005.3 of the Welfare and Institutions Code, as added by Chapter 570 of the Statutes of 1987, is amended and renumbered to read:

14005.18. A woman is eligible, to the extent required by federal law, as though she were pregnant, for all pregnancy-related and postpartum services for a 60-day period beginning on the last day of pregnancy.

For purposes of this section, "postpartum services" means those services provided after childbirth, child delivery, or miscarriage.

SEC. 129. Section 14105.65 of the Welfare and Institutions Code is amended to read:

14105.65. Notwithstanding Section 14105.41 and Section 11346.4 of the Government Code, a notice of proposed adoption or amendment of a regulation by the department regarding the addition of a drug product to the Medi-Cal drug formulary shall be effective until June 30 of the second fiscal year following the fiscal year in which the notice of proposed adoption or amendment was issued, provided all of the following criteria are met:

(a) The drug product was the subject of a petition for addition to the Medi-Cal drug formulary pursuant to Section 14105.4 or 14105.91.

(b) The department, after public hearing, made a decision to add the drug product to the Medi-Cal drug formulary, and submitted the final regulation to the Department of Finance for review pursuant to Section 13075 of the Government Code.

(c) The Department of Finance disapproved the regulation pursuant to Section 13075 of the Government Code, after November 1, 1988, and after making a determination that sufficient funds were not available to fund the added expenditures which would be incurred if the regulation were adopted.

SEC. 130. Section 16702 of the Welfare and Institutions Code is amended to read:

16702. The net county costs of health services specified in each county health services plan and budget shall be financed in each county, the City of Berkeley, the City of Long Beach, and the City of Pasadena with assistance from the County Health Services Fund in accordance with all of the following:

(a) For each county, an annual grant of three dollars ($3) per capita based upon population estimates of the Department of Finance as of January 1 of the previous fiscal year.

(b) Fifty percent of the amount derived by subtracting paragraph (2) from paragraph (1) below:

(1) The base net costs increased by 16 percent for the 1979–80 fiscal year.

(2) The amount calculated for the county in subdivision (a).

(3) The base net costs for each county shall be the actual net costs for the county for the 1977–78 fiscal year, as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978 and adjusted as applicable pursuant to this section.

(c) (1) The amount of assistance from the County Health Services Fund for the County of Alameda, as determined in subdivision (b), shall include an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year.

(2) The amount of assistance from the County Health Services Fund for the City of Berkeley shall be an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year.

(3) The amount of additional assistance from the County Health Services Fund for public health services in the County of San Joaquin shall be the amount set forth in the Budget Act of 1981 (Chapter 99 of the Statutes of 1981) for the San Joaquin Local Health District for that purpose for the 1981–82 fiscal year.

(4) The amounts of assistance from the County Health Services Fund for the City of Long Beach and the City of Pasadena shall be the average amounts of the Public Health Services Contracts with Los Angeles County, less the average revenue from environmental health permit fees collected in each jurisdiction and retained by the county for three years prior to the initial year of County Health Services Fund assistance to the City of Long Beach and the City of Pasadena. These amounts shall be adjusted by the average increase in the amount of the contract over the same period. This paragraph shall be operative in the fiscal year following the adoption of a resolution by the governing body pursuant to Section 477 of the Health and Safety Code.

(5) The base net costs for the County of Los Angeles shall be reduced by the amounts provided to the City of Long Beach and the City of Pasadena as determined by the formula established in paragraph (4).

(6) The amount of assistance for the County of Los Angeles, as determined in subdivision (a), shall be reduced by the amounts provided to the City of Long Beach and the City of Pasadena, as determined in paragraph (4).

(d) The amount of funds transferred at the request of the county pursuant to Section 1157.5 of the Health and Safety Code.

(e) On July 1, 1980, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect any increases or decreases in the cost of living. On July 1, 1981, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases, if any, in the appropriations provided for in the Budget Act for the 1981–82 fiscal year and shall be adjusted to reflect the funds transferred pursuant to Section 12 of Chapter 1004 of the Statutes of 1981. On July 1, 1982, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases, if any, in the

appropriations provided for in the Budget Act for the 1981–82 fiscal year and the increases, if any, in the Budget Act for the 1982–83 fiscal year. On July 1, 1983, and each July 1 thereafter, the amounts specified in subdivisions (a), (b), (c), and (d), as adjusted pursuant to this subdivision for the 1982–83 fiscal year, shall be adjusted to reflect any increases or decreases in the cost of living occurring during the 1982 calendar year and each year thereafter. The average of the separate indices of the cost of living for Los Angeles and San Francisco as published by the United States Bureau of Labor Statistics shall be used as the basis for determining the changes in the cost of living. The State Department of Health Services shall compare the average index for the December preceding the July in which the cost-of-living adjustment is effective with the average index for the month of December of the previous year. The percentage increase or decrease in the average index shall then be multiplied by the amounts specified in subdivisions (a), (b), (c), and (d) as previously adjusted pursuant to this subdivision.

SEC. 131. A heading is added to Part 4.7 (commencing with Section 16900) of Division 9 of the Welfare and Institutions Code, immediately preceding the heading of Chapter 1 (commencing with Section 16900) of Division 9, to read:

PART 4.7. COUNTY INDIGENT CARE

SEC. 132. Any section of any act enacted by the Legislature during the 1990 calendar year, which takes effect on or before January 1, 1991, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

CHAPTER 217

An act to add Section 35558 to the Vehicle Code, relating to vehicles.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 12, 1990.]

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

SECTION 1. Section 35558 is added to the Vehicle Code, to read:

35558. Any person or business which has an axle weight scale at

its loading facilities shall, upon the request of the driver, weigh any load being transported for that person or business before the vehicle leaves the loading facility. In a port facility, this requirement only applies if the scale is located in outbound lanes. The request to weigh shall be based upon a reasonable assumption that the load is overweight.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 218

An act to amend Section 31493 of, and to add Section 31493.5 to, the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 12, 1990]

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

SECTION 1. Section 31493 of the Government Code is amended to read:

31493. (a) Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until he or she certifies to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting his or her election.

(b) This section shall be applicable to persons who are eligible for membership and are employed prior to January 1, 1991.

SEC. 2. Section 31493.5 is added to the Government Code, to read:

31493.5. (a) Any person employed who qualifies as a member shall certify to the board his or her election to be covered by the retirement plan established by this article or to be covered by the

retirement provisions and benefits otherwise available to members as of the date of employment. Any person who dies prior to certifying his or her election or who fails to certify his or her election within the period set forth in subdivision (b) shall, as of the date of death or the day immediately following the last day to certify his or her election, be deemed to have elected to be covered by the retirement plan established by this article.

(b) The election required to be made by subdivision (a) shall be certified to the board:

(1) Within 30 days of employment if written disclosure materials are provided by the employer pursuant to subdivision (c) within 14 days of employment, or

(2) Within 30 days of the receipt of written disclosure materials provided by the employer if the employer fails to provide written disclosure materials within 14 days of employment as required by subdivision (c).

(c) The employer shall, within 14 days of the date of employment, provide to each person who qualifies as a member, written disclosure materials of the elements of each of the available retirement plans.

(d) This section shall be applicable to persons eligible for general membership in Plans D and E who become employed on or after January 1, 1991, and to persons who were employed prior to January 1, 1991, but did not become eligible for membership until January 1, 1991, or later.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 219

An act to amend Section 31470.6 of the Government Code, relating to county retirement.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 12, 1990]

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

SECTION 1. Section 31470.6 of the Government Code is amended to read:

31470.6. (a) A permanent employee of a county having a population in excess of 500,000 whose principal duties consist of active protection, rescue, and rendition of aid or assistance to persons

injured or imperiled in water areas at beaches and lakes, streams, dams, reservoirs, or other bodies of open water (not including swimming pools) or in small craft or airplanes at sea near the shoreline and the recovery from water areas of submerged objects and bodies of persons drowned or believed to have drowned in those areas, or the immediate supervision thereof, including persons employed to perform the duties now performed under the titles of director of beaches, assistant director of beaches, deputy director of beaches, chief lifeguard, assistant chief lifeguard, captain lifeguards, lieutenant rescue boat, lieutenant lifeguards, beach lifeguard, but who performs additional duties, some of which (including the maintenance of peace and order and the apprehension of law violators) are customarily performed by police or peace officers, and whose other duties (such as resuscitation work involving the use of special equipment in cases having no connection with their principal duties) which in other areas are customarily performed by firemen, and other and further duties (such as the rescue of persons from disabled aircraft and small boats in inshore or inland waters and the removal of dangerous obstructions from waters) which do not come directly within any of the aforesaid classifications but are essential to the safety and security of the public, excluding those whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly do not fall within the scope of active lifeguarding or lifesaving service, even though a person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active lifeguarding or lifesaving service, shall be considered and is hereby classified as an employee whose principal duties consist in "active law enforcement."

Persons employed to perform the duties of director of beaches, assistant director of beaches, or deputy director of beaches shall not be within the classification of "active law enforcement" employee, unless those persons have previously been included within that classification, or have performed duties which would have qualified such person as an "active law enforcement" employee under this section.

(b) In a county with a population in excess of four million, the provisions of subdivision (a) shall also apply to persons employed under the titles and to perform the duties of division chief-public safety, assistant division chief-public safety, or district manager-public safety.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 220

An act to amend Section 35012 of the Education Code, relating to school district governing boards.

[Approved by Governor July 11, 1990. Filed with Secretary of State July 12, 1990]

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

SECTION 1. Section 35012 of the Education Code is amended to read:

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.

There may also be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to allow preferential voting for the pupil member or members of the board. This request may be made in the original petition for pupil representation on the board or in a separate petition after a pupil member or members have been appointed to the board.

Whether for pupil representation or for preferential voting for the pupil member or members, 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 a petition for pupil representation, 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.

Upon receipt of a petition for preferential voting for the pupil member or members, the governing board shall allow preferential voting for the pupil member or members of the governing board.

Preferential voting, as used in the section, means a formal expression of opinion that is recorded in the minutes and cast prior to the official vote of the governing board. A preferential vote will not serve in determining the final numerical outcome of a vote. No preferential vote will be solicited on matters subject to closed session discussion.

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 a nonvoting or preferential voting 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 or preferential voting 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 or preferential voting 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 or preferential voting pupil member shall not be included in determining the vote required to carry any measure before the board.

The nonvoting or preferential voting pupil member shall not be liable for any acts of the governing board.

CHAPTER 221

An act to amend Section 44478 of the Education Code, relating to education.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 12, 1990]

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

SECTION 1. Section 44478 of the Education Code is amended to read:

44478. (a) A teacher in kindergarten to grade 12, inclusive, who holds a valid California teaching credential may demonstrate the competencies required by Section 44477 by either of the following:

(1) Successfully completing an approved college or university training program and passing the approved state examination.

(2) Having the teaching experience set forth in subdivision (c) and passing the approved state examination.

(b) A college or university training program shall consist of not less than 24 approved semester units, or quarter unit equivalents, which shall include, but need not be limited to, an emphasis on the teaching of pupils of limited-English proficiency in accordance with the standards for approval established by the commission, including the following:

(1) The structure and role of language.

(2) Psychosocial and cultural factors in language acquisition.

(3) Theories and methods of bilingual education.

(4) Analysis of the English language for teaching purposes.

(5) Theories and methods of teaching English to persons who speak other languages.

(6) Testing, diagnosis, language assessment, and evaluation.

(7) Materials for use in classes for pupils of limited-English proficiency.

(8) The practicum in teaching English to persons who speak other languages. In adopting coursework standards, the commission shall relate the coursework requirements to the competencies established pursuant to subdivision (b) of Section 44477.

(c) Persons holding a valid California teaching credential may make direct application to the commission to take the state examination at any time, whether or not they have met one or more of the requirements stated in paragraph (1), (2), or (3). However, a candidate shall have met one of the following requirements before a language development specialist certificate may be issued:

(1) Two years of experience in a teaching assignment or its equivalent if the major part of the assignment was spent in the provision of instruction to pupils of limited-English proficiency.

(2) One year of full-time teaching experience with pupils of limited-English proficiency, and the possession of a certificate or

degree in English for Speakers of Other Languages (ESOL).

(3) A master's degree or higher degree in English for Speakers of Other Languages, or a related field, as specified by the commission.

(d) In order to demonstrate his or her competency under subdivision (b) or (c), a teacher shall take and pass the state examination for a language development specialist.

(e) Teachers meeting the qualifications prescribed by paragraph (1) or (2) of subdivision (c) may be authorized by the employing school district to serve as temporary language development specialists during the initial year of the administration of the state examination for a language development specialist certificate by the Commission on Teacher Credentialing. Teachers authorized under this subdivision may continue to serve as temporary language development specialists until July 1, 1987, the scheduled sunset date for bilingual education programs prescribed by Section 62000, or until any prescribed earlier date for the sunset of those programs if they take the state examination for a language development specialist certificate during its initial year of administration. Nothing in this section shall be construed, however, to permit these teachers to continue to serve as language development specialists in subsequent school years unless they have passed the state examination, except that the State Board of Education may authorize one additional year of service upon a demonstration of extenuating circumstances.

CHAPTER 222

An act to amend Section 1558 of the Penal Code, relating to extradition.

[Approved by Governor July 11, 1990. Filed with Secretary of State July 12, 1990]

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

SECTION 1. Section 1558 of the Penal Code is amended to read:

1558. No compensation, fee, profit, or reward of any kind can be paid to or received by a public officer of this state, a corporation or firm, or other person, for a service rendered in procuring from the Governor the demand mentioned in Section 1557, or the surrender of the fugitive, or for conveying him or her to this state, or detaining him or her therein, except as provided for in that section. Every person who violates any of the provisions of this section is guilty of a misdemeanor.

SEC. 2. The Legislature hereby finds and declares that this act does not constitute a change in, but is declaratory of, the existing law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 223

An act to amend Section 186.22a of the Penal Code, relating to crimes.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 12, 1990]

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

SECTION 1. Section 186.22a of the Penal Code is amended to read:

186.22a. (a) Every building or place used by members of a criminal street gang for the purpose of the commission of the offenses listed in subdivision (c) of Section 186.22 or any offense involving dangerous or deadly weapons, burglary, or rape, and every building or place wherein or upon which that criminal conduct by gang members takes place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(b) Any action for injunction or abatement filed pursuant to this section shall proceed according to the provisions of Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, except that all of the following shall apply:

(1) The court shall not assess a civil penalty against any person unless that person knew or should have known of the unlawful acts.

(2) No order of eviction or closure may be entered.

(3) All injunctions issued shall be limited to those necessary to protect the health and safety of the residents or the public or those necessary to prevent further criminal activity.

(4) Suit may not be filed until 30-day notice of the unlawful use or criminal conduct has been provided to the owner by mail, return receipt requested, postage prepaid, to the last known address.

(c) No nonprofit or charitable organization which is conducting its affairs with ordinary care or skill, and no governmental entity, shall be abated pursuant to this chapter.

(d) Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

CHAPTER 224

An act to amend Section 6500 of the Government Code, relating to public agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 12, 1990]

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

SECTION 1. Section 6500 of the Government Code is amended to read:

6500. As used in this article, "public agency" includes, but is not limited to, the federal government or any federal department or agency, this state, another state or any state department or agency, a county, county board of education, county superintendent of schools, city, public corporation, public district, or regional transportation commission of this state or another state.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Local governmental entities need immediate clarification of their authority to enter into joint powers agreements, which affect numerous public services and projects. It is necessary, therefore, that this act take effect immediately.

CHAPTER 225

An act to add Section 8880.72 to the Government Code, relating to the California State Lottery.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 12, 1990]

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

SECTION 1. Section 8880.72 is added to the Government Code, to read:

8880.72. All civil process in any action brought against the Director, the Commission, or the Lottery and any subpoena for the production of Lottery records shall be served upon the Director or his or her designated representative at the Lottery headquarters in Sacramento.

SEC. 2. The Legislature finds and declares that this act furthers the purposes of the California State Lottery Act of 1984.

CHAPTER 226

An act to amend Section 20142 of the Public Contract Code, relating to county facilities.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 12, 1990]

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

SECTION 1. Section 20142 of the Public Contract Code is amended to read:

20142. (a) The board of supervisors may, by ordinance, resolution, or board order, authorize the county engineer, or other county officer, to order changes or additions in the work being performed under construction contracts. When so authorized, any change or addition in the work shall be ordered in writing by the county engineer, or other designated officer, and the extra cost to the county for any change or addition to the work so ordered shall not exceed five thousand dollars ($5,000) when the total amount of the original contract does not exceed fifty thousand dollars ($50,000), nor 10 percent of the amount of any original contract which exceeds fifty thousand dollars ($50,000), but does not exceed two hundred fifty thousand dollars ($250,000).

(b) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 1 percent of the amount of the original contract cost in excess of two hundred fifty thousand dollars ($250,000). In no event shall any such change or alteration exceed one hundred thousand dollars ($100,000).

CHAPTER 227

An act to amend Section 6552 of the Elections Code, relating to elections.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 12, 1990]

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

SECTION 1. Section 6552 of the Elections Code is amended to read:

6552. (a) The following fees for filing declarations of candidacy shall be paid to the Secretary of State by each candidate:

(1) Two percent of the first-year salary for the office of United States Senator or for any state office. The fee prescribed in this

subdivision does not apply to the office of State Senator, Assemblyman, member of the Board of Equalization, or justice of the court of appeal.

(2) One percent of the first-year salary for the office of Representative in Congress, member of the Board of Equalization, or justice of the court of appeal.

(3) One percent of the first-year salary for the office of State Senator or Assemblyman.

(b) For purposes of this section, "salary" means the annual salary for the office as of the first day on which a candidate may circulate petitions in lieu of filing fees pursuant to Section 6555.

CHAPTER 228

An act to add Chapter 8 (commencing with Section 35230) to Part 4 of Division 13 of the Water Code, relating to California water districts.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 12, 1990]

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

SECTION 1. Chapter 8 (commencing with Section 35230) is added to Part 4 of Division 13 of the Water Code, to read:

CHAPTER 8. METHOD OF ELECTION FOR THE RANCHO CALIFORNIA WATER DISTRICT

35230. This chapter shall apply only to the manner in which elections are conducted in the Rancho California Water District. For the purposes of this chapter, "district" means the Rancho California Water District.

35231. Notwithstanding any other provision of law, or the bylaws of the district, all district elections held after the transition period provided in Section 35232 shall be conducted as resident voter elections. Except as provided in this chapter, the district shall continue to be operated, managed, and governed as a California water district in accordance with this division and other applicable provisions of law.

35232. (a) In order to facilitate an orderly transition to resident voter elections, commencing with the 1991 district election, there shall be a transition period which shall continue until the entire board is elected by resident vote. At each election, during the transition period, one new director position shall convert to a resident voter position and, thereafter, shall remain a resident voter position, in accordance with the following:

(1) At the 1991 district election, one director shall be elected by

resident voters and two directors shall be elected by landowner voters.

(2) At the 1993 district election, one director shall be elected by resident voters and three directors shall be elected by landowner voters.

(3) At the 1995 district election, two directors shall be elected by resident voters and one director shall be elected by landowner voters.

(4) At the 1997 district election, two directors shall be elected by resident voters and two directors shall be elected by landowner voters.

(5) At the 1999 district election, three directors shall be elected by resident voters.

(6) At the 2001 district election, three directors shall be elected by resident voters and one director shall be elected by landowner voters.

(b) Following the 2001 district election, subsequent district director elections shall be resident voter elections. The transition period shall conclude when the term of the last director elected by landowner voters ends in 2005.

35233. 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) and the laws generally applicable to districts created and operated pursuant to this division, except that during the transition period provided in Section 35232, the following shall apply:

(a) During the transition period, at district general elections, some directors shall be elected by resident voters while others shall be elected by landowner voters. Separate ballots shall be prepared and separate elections shall be conducted for those director positions which will be elected by resident voters and for those which will be elected by landowner voters. Notwithstanding Section 23557 of the Elections Code, these landowner voter elections and resident voter elections shall be conducted simultaneously.

(b) During the transition period, district elections shall continue, as presently authorized, to be conducted by all-mailed ballots pursuant to Section 23511.1 of the Elections Code. Following the transition period, the all-mailed ballot procedure may be revoked under the procedures of Section 23511.4 of the Elections Code or district elections may be consolidated with the statewide general election as provided by Section 23302.1 of the Elections Code.

(c) During the transition period, separate voter lists of resident voters and landowner voters eligible to vote within the the district shall be prepared and maintained according to applicable provisions of law. Separate all-mailed ballot elections shall be held for the directors to be elected by resident voters and for those to be elected by landowner voters.

(d) During the transition period, district directors shall continue to be elected on an at-large basis. Following the transition period, the

district board of directors may determine to establish director divisions in accordance with Section 35215.

(e) During the transition period, the district board of directors shall consist of seven directors. Following the transition period, the number of directors on the district board of directors may be changed in accordance with Sections 34708 and 34708.5.

(f) During the transition period, any district election held for the purpose of obtaining voter approval for bonded or other indebtedness shall be conducted as a landowner voter election. Following the transition period, any district election held for the purpose of obtaining voter approval for bonded or other indebtedness shall be conducted as a resident voter election.

(g) During the transition period, a person who qualifies according to Section 35234 both to be a director elected by resident voters and a director elected by landowner voters may run for the district board of directors on both the resident voter ballot and the landowner voter ballot on the same election date. In the event that the same person is elected to the district board on both ballots, the person shall be declared elected on the resident voter ballot and not elected on the landowner voter ballot. The candidate with the next highest number of votes on the landowner voter ballot shall be declared elected. If this procedure results in fewer remaining candidates than there are landowner voter director positions to be filled, then the unfilled positions shall be treated as vacant and filled according to subdivision (h).

(h) During the transition period, any vacancy on the district board shall be filled according to the procedures contained in Section 1780 of the Government Code. To be eligible to fill a vacancy, a person shall be qualified to be a director according to Section 35234 (1) as a director elected by resident voters if the person who vacated the position was elected by resident voters, or (2) as a director elected by landowner voters if the person who vacated the position was elected by landowner voters.

35234. All directors elected by resident voters shall be residents of, and registered voters in, the district at the time of their election and during their term of office. During the transition period, directors elected by landowner voters shall be qualified according to Section 34700 at the time of election and during their term of office.

35235. Only resident voters, registered to vote in the manner prescribed by law, shall be eligible to vote for district directors to be elected by resident voters. During the transition period, landowner voters qualified according to Chapter 1 (commencing with Section 35000) shall be eligible to vote for district directors to be elected by landowner voters.

35236. This chapter shall in no way invalidate any action of the district or of its directors, or officers, and employees made or performed while the district was operating as a landowner voting district.

35237. Nothing in this chapter shall affect any acts or proceedings

previously taken for the authorization, issuance, or sale of any bonds of the district in any manner provided by law prior to the effective date of this chapter or affect the ability of the district to sell and issue any bond previously authorized. For the purposes of this chapter, "bonds" shall include notes and any other evidences of indebtedness.

SEC. 2. The Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution and that a local special statute is necessary to meet the special problems in the Rancho California Water District. The Legislature has determined that the voter qualification provisions of the California Water District Law should not apply to the Rancho California Water District.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 229

An act to amend Sections 50668.5, 50669, 50771.1, 50771.3, and 50736 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1990. Filed with Secretary of State July 12, 1990.]

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

SECTION 1. Section 50668.5 of the Health and Safety Code is amended to read:

50668.5. For the purpose of providing financial assistance pursuant to this chapter utilizing bond proceeds transferred to the Housing Rehabilitation Loan Fund pursuant to paragraph (2) of subdivision (a) of Section 53130 and paragraph (2) of subdivision (b) of Section 53130 and Sections 8878.20 and 8878.21 of the Government Code, deferred payment loans made with these funds shall be subject to all of the following special provisions, which shall prevail over conflicting provisions of this chapter:

(a) (1) Applications for fund commitments shall be accepted by the department at any time. Fund commitments shall be based on a ranking of applications, which shall occur at least once every three months until there are insufficient funds available to commit according to this ranking. In making this ranking for rental housing developments, priority shall be given to those projects which (A)

serve the greater number of eligible households as defined in Section 50105 with the lowest incomes, (B) provide the greater number of units with three or more bedrooms, (C) are located in areas where the housing need is great as determined by the department, taking into consideration, among other factors, low vacancy rates, high market rents, long waiting lists for subsidized housing, the stock of substandard housing, and the potential loss of subsidized rental housing to market-rate housing through demolition, foreclosure, or subsidy termination, (D) complement the implementation of an existing housing program, (E) maximize private local and other funding sources, and (F) maximize long-term benefits for eligible households, as defined in Sections 50079.5 and 50105. Subparagraph (B) above shall not apply to applications for fund commitments submitted pursuant to Section 50670 or to any application for residential hotels and motels. In making this ranking for owner-occupied housing, priority shall be given to those applications which (A) serve the greater number of eligible households, as defined in Section 50105, with the lowest income, (B) provide the greater number of units with three or more bedrooms, (C) are located in areas where the need for rehabilitation is great as determined by the department, taking into consideration, among other factors, the amount of substandard owner-occupied housing, low vacancy rates, and limited availability of affordable housing, (D) complement the implementation of an existing housing program, and (E) maximize available and appropriate private, local, and other funding sources. The department shall also evaluate the capability of the sponsor to rehabilitate, own, and manage the rental housing development or the capability of the applicant for funding for owner-occupied housing to implement the proposed program.

(2) Loans for rental housing developments may be reviewed, approved, and funded by the department directly to the sponsor. In these cases, the department shall ensure that the sponsor notifies the local legislative body of the sponsor's loan application prior to a funding award. Loans to owner-occupants may be made by local public entities or nonprofit corporations which have received fund commitments from the department. The department shall ensure that the local public entity or nonprofit corporation applying for fund commitments for loans to owner-occupants notifies the local legislative body of the application prior to a funding award. When the department certifies a local public entity or nonprofit corporation as being capable of making these loans, the department shall delegate responsibility for reviewing and approving these loans to the local public entity or nonprofit corporation. If it is determined by the department that the local public entity or nonprofit corporation is no longer capable of making or managing these loans, the department may, at its sole discretion, revoke that delegation of responsibility or cancel the funding commitment to the local public entity or nonprofit corporation, or both. The department's regulations shall include procedures and standards for certification

and decertification.

(3) A sponsor may apply for loans for one or more rental housing developments.

(b) (1) A housing development may utilize any combination of federal, state, local, and private financial resources necessary to make the development affordable, for the term of the state's regulatory agreement, to the eligible households. Notwithstanding the requirements of Section 50663, rental housing developments and owner-occupied units assisted by the program may be located anywhere in the state.

(2) In the case of nonprofit sponsors, loans for rental housing developments, when combined with other indebtedness against the property shall not exceed 100 percent of the after-rehabilitation value of the property, as determined by an appraisal of the property conducted pursuant to guidelines established in regulations of the department.

(3) The maximum loan amounts per unit established in regulations pursuant to Section 50670 shall also apply to rental housing developments rehabilitated or acquired and rehabilitated pursuant to paragraph (1) of subdivision (a) of Section 50661, except that there shall not be a maximum loan amount established per project. These dollar limitations may be increased by the department, as necessary, in high-cost areas of the state or where the correction of severe health and safety defects or the provisions of handicapped accessibility standards necessitate greater assistance. The department, by regulation, may specify unit loan limits for loans made for owner-occupied housing and the circumstances under which it may grant exceptions to, or variances from, these limits.

(4) (A) Loans made to sponsors of rental housing developments for acquisition and rehabilitation shall be for terms of not less than 30 years. Loans made to sponsors of rental housing developments for rehabilitation only shall be for terms of not less than 20 years. However, the term shall not exceed the useful life of the rental housing development for which the loan is made. The sponsor may elect to begin to repay the loan at any time in accordance with the prepayment plan established in accordance with paragraph (6), if it is determined by the department, that the sponsors can continue to maintain the rents at levels affordable to eligible households.

(B) The term of the loan and the time for repayment may be extended by the department for additional 10-year terms as long as the rental housing development is operated in a manner consistent with the regulatory agreement and the sponsor requires an extension in order to continue to operate in a manner consistent with this chapter.

(5) (A) In the case of loans made for rental housing developments, eligible costs shall include those costs relating to (i) real property acquisition, including refinancing of existing debt to the extent necessary to reduce debt service to a level consistent with the provision of affordable rents and the fiscal integrity of the

project; (ii) rehabilitation or reconstruction, including the conversion of nonresidential structures to residential use; (iii) general property improvements which are necessary to correct unsafe, unhealthy, or unsanitary conditions, including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping, and purchase or installation of central air conditioning; (iv) necessary and related onsite improvements; (v) reasonable administrative expenses in connection with the planning and execution of the project, as determined by the department; (vi) reasonable consulting costs; (vii) rent-up costs; (viii) seismic rehabilitation improvements; and (ix) any other costs of rehabilitation authorized by the department. "Rent-up costs," as used in this section, means costs incurred while a unit is on the housing market but not rented to its first tenant. "Seismic rehabilitation improvements," as used in this section, means improvements which are designed to increase seismic structural safety in accordance with a plan developed by a civil engineer, a structural engineer, or an architect for a particular building that has been identified as hazardous by the city or county in which the building is located in accordance with the criteria established by the Seismic Safety Commission pursuant to Section 8875.1 of the Government Code or in accordance with a previously adopted city or county seismic safety ordinance adopted pursuant to Section 19163.

(B) In the case of loans made for owner-occupied housing, eligible costs shall include those costs relating to (i) rehabilitation work expenses; (ii) cost of room additions necessary to alleviate overcrowding; (iii) costs of general property improvements including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping and purchase or installation of central air conditioning, to the extent that they are necessary to correct unsafe, unhealthy, or unsanitary conditions; (iv) costs related to necessary architectural, engineering, and other technical consultants; (v) costs of preliminary reports, title policies, credit reports, appraisal reports, and fees for recording documents related to the department's loans; (vi) costs of building permits and other government fees; and (vii) if in conjunction with other rehabilitation work, costs for improvements related to making the housing accessible to the handicapped.

(C) Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating costs, and Sections 53131 and 53133, the department may set aside or use any amounts available in the fund to establish a rental housing development default reserve for the purpose of curing or avoiding a sponsor's defaults on the terms of any loan or other obligation which jeopardizes the financial integrity of a rental housing development or the department's security in the rental housing

development. The payment or advance of funds by the department pursuant to this subparagraph shall be solely within the discretion of the department and no sponsor shall be entitled to or have any right to payment of these funds. Funds advanced pursuant to this subparagraph shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

(D) Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating cost, or Sections 53131 and 53133, the department may set aside or use proceeds in the fund in an amount not to exceed 3 percent of the amount of encumbrances for loans for owner-occupied housing to establish an owner-occupied housing default reserve for the purpose of curing or avoiding an owner's default on the terms of any loan or other obligation which jeopardizes the department's security in the owner-occupied housing. The payment or advance of funds by the department pursuant to this subparagraph shall be solely within the discretion of the department, and no homeowner shall be entitled to, or have any right to payment of, these funds. Funds advanced pursuant to this subparagraph shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand. Interest payments from loans for owner-occupied housing shall be allocated by the department into this reserve to replace the allocated proceeds until the percent established by the department is achieved solely with interest payments.

(6) Upon request of the sponsor, the department may permit repayment of a sponsor's loan on the basis of net cash flow. The department shall develop a prepayment plan in conjunction with the sponsor which will ensure the maintenance of affordable rents and the fiscal integrity of the rental housing development. As an incentive to encourage the prepayment of loans, the department may permit the sponsor to retain one-half of the net cash flow. The department shall determine the method for calculating net cash flow, which may include a factor for excess debt service coverage or a return on cash investment to the sponsor.

(7) If a loan is made pursuant to this chapter for both seismic rehabilitation improvements and other eligible rehabilitation costs, only those costs related to the seismic rehabilitation improvements shall be counted and included for purposes of the fund reservation made by Section 8878.20 of the Government Code.

(c) Principal and accumulated interest are due and payable upon completion of the term of the loan. The loan shall bear interest at the rate of 3 percent per annum on the unpaid principal balance. However, the department shall reduce or eliminate interest payments on a loan for any year or, alternatively, defer interest until the deferred payment loan is repaid, if necessary to provide affordable rents to households of very low and low income. The ability to pay all or part of the 3 percent simple annual interest shall not be considered in determining the fiscal integrity of the rental housing development at the time of the rating and ranking of an

application.

(1) "Maintain affordable rent levels," as used in this section, means rents may be automatically increased by the sponsor on an annual basis pursuant to an inflation index to be determined by the department. The inflation index shall reflect anticipated annual changes in rental housing development operating costs from a base year when the rents are initially established. Any sponsor may appeal to the department for a greater adjustment in rents necessary to ensure the fiscal integrity of the rental housing development. If the department does not respond within 60 days, the request shall be deemed approved. A 30-day written notice shall be given to each eligible household prior to an adjustment in the amount of rent.

(2) Upon prior written approval by the department, a sponsor may set income limits for incoming tenants at a level below the limit specified in Section 50079.5. If a tenant's income exceeds this income limit established by the sponsor, but does not exceed the limit specified in Section 50079.5, that fact alone shall neither constitute cause for the tenant's eviction, nor be a violation of the sponsor's loan agreement. If a tenant's income exceeds the income limit for a household specified in Section 50079.5, the tenant shall be required to vacate the assisted unit within six months from the date of income recertification or notice to the sponsor of an increase in income over the permissible income level. That period may be extended by the sponsor for an additional six-month period in high cost rental areas with low vacancy rates, as determined by the department. Any vacant units shall be rented to eligible households until the required residency by eligible households is attained.

In the case of limited equity housing cooperatives, the provisions of this paragraph shall apply, except that tenants whose incomes, upon recertification, exceed the limit specified in Section 50079.5 shall not be required to vacate their units. Instead, and upon six months' notice, these tenants shall be required to pay rent in an amount equal to the market rate rent for comparable units, as determined by the department. When a tenant's income exceeds the limit specified in Section 50079.5, the next available membership share for occupancy in a comparable unit shall be sold to a household with an income at or below this limit.

(3) When operating income as defined by the department is greater than operating expenses, debt service, deposits required for reserve accounts, payments pursuant to paragraph (6) of subdivision (b) if elected by the sponsor, approved annual distributions, and any other disbursements approved by the department, these excess funds shall be paid into an account established in the fund. Funds in this account shall be appropriated to the department for use to assist rental housing developments funded pursuant to this section with proceeds of bonds issued pursuant to Chapter 27 of the Statutes of 1988, Chapter 30 of the Statutes of 1988, or Chapter 48 of the Statutes of 1988, subject to the following requirements:

(i) Excess funds in the account shall be allocated first into the

rental housing development default reserve established pursuant to subparagraph (C) of paragraph (5) of subdivision (b). The balance of this default reserve shall not exceed the maximum level of funding established by regulations adopted by the department.

(ii) After the rental housing development default reserve is fully funded with these excess funds, the department shall use all additional excess funds in the account for payment of either unforeseen capital improvements, the cost of which would jeopardize the fiscal integrity and affordability of a rental housing development, or to further reduce rents in a rental housing development. The department may adopt regulations which specify the procedures and standards for application for, and use of, these funds. Those payments used for capital improvements shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

(d) Prior to disbursement of any funds for loans to rental housing developments made pursuant to this section, the department shall enter into a regulatory agreement with the sponsor in accordance with subdivision (d) of Section 50670, except that (1) the term of the regulatory agreement shall be for the original term of the loan and the agreement shall be binding upon the sponsor and successors in interest upon sale or transfer of the rental housing development or prepayment of the loan and (2) a nonprofit sponsor, other than a governmental agency, may maintain a debt service coverage ratio of 115 percent and distribute earnings in an amount no greater than 8 percent of the nonprofit sponsor's actual investment. The regulatory agreement also shall contain provisions requiring annual inspections and review of year-end fiscal audits and related reports by the department and provisions to maintain affordable rent levels to serve eligible households.

(e) Where loans will be used in conjunction with federal or other housing assistance or tax credits and a conflict exists between the other state or federal program requirements and those of this chapter with respect to the calculation of rents, the requirements of the Deferred Payment Rehabilitation Loan Program and the Special User Housing Rehabilitation Program may be waived only to the extent necessary to permit federal or other state financial participation or eligibility for tax credits.

(f) "Sponsor," for purposes of this section, has the same meaning as defined in subdivision (c) of Section 50669.

(g) The department shall adopt emergency regulations to implement this chapter and to amend the maximum loan amounts per unit established in regulations adopted pursuant to Section 50670, with respect to loans made with funding subject to this section. The regulations shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning or purposes of Section 11346.1 of the Government Code.

Notwithstanding conflicting provisions of this chapter, the

department may elect to make these regulations additionally applicable until July 1, 1990, to all other deferred payment loan programs authorized by this chapter, except the programs specified in Sections 50662.5 and 50671, if the department determines that the uniformity achieved thereby will avoid significant additional administrative costs.

(h) For purposes of this section, "rental housing development" means a single family house or a multifamily structure or structures containing two or more dwelling units, including efficiency units. One or more of the dwelling units in a rental housing development shall be rented or leased or otherwise occupied as a primary residence by a person or household who is not the owner of the structure or structures. For the purposes of this section, motels operated pursuant to subdivision (b) of Section 50669, residential hotels, group or congregate homes, and limited equity housing cooperatives are rental housing developments. Except for motels, the limitations concerning types of residents and minimum number of units set forth in subdivision (b) of Section 50669 shall not apply.

(i) "Affordable rent" for the purposes of this section shall be established by the department in the regulations authorized by subdivision (g). However, the initial rents shall be established by the department based on a designated family size for each unit size, and those initial rents shall not exceed 30 percent of 50 percent of the area median income adjusted by that designated family size for units restricted to occupancy by very low income households; or 30 percent of 60 percent of area median income adjusted by that designated family size for units restricted to occupancy by low-income households. In establishing affordable rent levels, the department shall make provision in its regulations for projects serving the physically and mentally handicapped persons.

SEC. 2. Section 50669 of the Health and Safety Code is amended to read:

50669. As used in Section 50670:

(a) "Deferred-payment loan" means a loan for acquisition and rehabilitation of a rental housing development which (1) has a term of not more than 30 years, but which shall not in any event exceed the useful life of the rental housing development for which such loan is made, as determined by the department, whichever is less, and (2) is repaid in a single payment upon refinancing of such development at the end of the term of the loan. Those loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance, provided, however, that the department shall reduce or eliminate interest payments on a loan for any year or, alternatively, defer interest payments until the deferred-payment loan is repaid, if necessary to provide affordable rents to households of very low and low income. The ability to pay all or part of the 3 percent simple annual interest shall not be considered in determining the fiscal integrity of the rental housing development at the time of the rating and ranking of an application.

(b) "Rental housing development" means a residential structure or structures containing five or more rental dwelling units for the elderly or handicapped, provided that each unit is equipped with a kitchen and bathroom, or a structure or structures intended for use as a group home by five or more handicapped individuals or a residential hotel for any low or very low income household. "Residential hotel" shall have the same meaning as used in paragraph (1) of subdivision (b) of Section 50519 but, for purposes of this subdivision, there shall be an additional requirement that a majority of the guestrooms in the hotel be residential hotel units. A "residential hotel unit" means a room used or intended to be used as a primary residential unit by a person or persons, which is subject to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code, but which does not have either a self-containing kitchen or bathroom, or both. A "residential hotel unit" also includes an efficiency unit as defined in Section 17958.1. "Rental housing development" also means a residential structure or structures in operation or previously operated as a motel and subject to subdivision (b) of Section 1940 of the Civil Code, which will contain five or more dwelling units for any low or very low income households. Eligible rehabilitation costs relative to motels may include costs associated with adding self-containing kitchens and bathrooms in each unit.

(c) "Sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the department as qualified to own, manage, and rehabilitate a rental housing development. A sponsor may be organized for profit or limited profit or be nonprofit.

SEC. 3. Section 50771.1 of the Health and Safety Code is amended to read:

50771.1. For the purpose of providing deferred payment loans pursuant to this chapter for the development costs of rental housing developments utilizing moneys transferred to the Rental Housing Construction Fund pursuant to paragraph (1) of subdivision (a) of Section 53130 and paragraph (1) of subdivision (b) of Section 53130, the following special provisions shall prevail over conflicting provisions of this chapter:

(a) (1) Applications for fund commitments shall be accepted by the department at any time. Fund commitments shall be based on a ranking of applications, which shall occur at least once every three months until there are insufficient funds available to make commitments according to this ranking. In making this ranking, notwithstanding Sections 50737 and 50737.5, priority shall be given to projects which (A) maximize program benefits to eligible households, as defined in Section 50105 with the lowest incomes, (B) maximize program benefits to eligible households needing assisted units with three or more bedrooms, (C) are located in areas where

the housing need is great, as determined by the department, taking into consideration, among other factors, variations in local development costs, low vacancy rates, high market rents, and long waiting lists for subsidized housing, (D) complement the implementation of an existing housing program, (E) maximize private, local, and other funding sources, (F) are economically feasible given local market conditions, and (G) maximize the number of units which can be assisted under the program, relative to variances in market conditions for the development of rental housing. Subparagraph (B) above does not apply to applications for residential hotels.

(2) All loans shall be made directly from the department to the housing sponsor which applies to the department and will own, operate, and develop the housing development. The sponsor shall notify the local legislative body of its loan application prior to the funding award.

(3) A sponsor may apply for awards for one or more rental housing developments.

(4) The department shall evaluate the capability of the sponsor to own, construct, and manage the rental housing development.

(b) (1) A rental housing development may utilize any combination of federal, state, local, and private financial resources necessary to make the development affordable, for the term of the state's regulatory agreement, to eligible households.

(2) (A) Loans to sponsors of housing developments shall be for a term not less than 40 years. After 30 years from the time the loan is made, the sponsor shall begin to repay the loan in accordance with a payment plan, as determined by the department, that will maintain the rents affordable to eligible households.

(B) The term of the loan and the time for repayment may be extended by the department for additional 10-year terms as long as the rental housing development is operated in a manner consistent with the regulatory agreement and the sponsor requires an extension in order to continue to operate in a manner consistent with this chapter.

(C) Loans provided under this section shall bear an interest rate of 3 percent per annum. The department, by regulations, shall establish the conditions under which the interest may be reduced, waived, or deferred. At the request of the sponsor, the department may charge a higher interest rate.

(3) (A) Development costs shall include reasonable consulting fees, and other reasonable administrative expenses in connection with the planning and execution of the rental housing development, as determined by the department, and initial funding of emergency reserves, as required by the department. The development costs also shall further include the acquisition and completion of construction of a rental housing development where construction has halted due to financial distress, as determined by the department.

(B) A rental housing development shall include residential hotels,

as defined in subdivision (b) of Section 50669, and group homes.

(4) The sponsor shall maintain an emergency reserve to defray unanticipated cost increases or revenue shortfalls to maintain the fiscal integrity of the rental housing development and maintain affordable rents for eligible households.

(5) The department, by regulation, shall specify minimum equity requirements not to exceed 10 percent of total project development costs. This requirement does not apply to proposed projects where assisted units are less than 80 percent of the total number of units.

The department, by regulation, shall define "equity" for the purposes of this section, which shall include, but shall not be limited to, cash, real property, items of personal property having monetary value contributed by the sponsor and applied toward project costs, and the capitalized value of any exemption from local taxes on real property.

(6) The department, by regulation, may specify per-unit loan limits and circumstances under which it may grant exceptions to, or variances from, these limits. The loan amount shall not exceed either 100 percent of the development costs attributable to the assisted units or the amount necessary to maintain affordable rents for the assisted units, as determined by the department.

(c) (1) Initial rents, including a reasonable utility allowance, for assisted units reserved for occupancy by very low income households, and for all assisted units in residental hotels and group homes, shall not exceed 30 percent of 35 percent of area median income, adjusted by unit size. Initial rents, including a reasonable utility allowance, for assisted units reserved for occupancy by lower income households shall not exceed 30 percent of 60 percent of area median income, adjusted by unit size. The department, by regulation, shall specify the method for adjusting rents by unit size and for computing allowances for utility costs.

(2) The department shall develop an inflation index reflecting the annual anticipated changes in rental housing development operating costs from a base year. The inflation index shall be used by the sponsor to adjust the initial rent of each unit occupied by an eligible household to determine the annual rent. Any sponsor may appeal to the department for a greater adjustment in rents necessary to ensure the fiscal integrity of the housing development. If the department does not respond within 60 days, the request shall be deemed approved. A 30-day written notice shall be given to each eligible household prior to an adjustment in the amount of rent.

(3) Upon prior written approval by the department, a sponsor may set income limits for occupancy of assisted units designated for lower income households at a level below the limit specified in Section 50079.5. If a tenant's income exceeds this income limit established by the sponsor, but does not exceed the limit specified in Section 50079.5, that fact alone shall neither constitute cause for the tenant's eviction, nor be a violation of the sponsor's loan agreement.

(4) The monthly rent including a reasonable utility allowance

may be reduced by the sponsor, to make the units affordable to the lowest income household possible as long as the project remains economically feasible.

(5) (A) If a household's income exceeds the standard pursuant to which it was accepted for tenancy, that fact alone shall neither constitute cause for the household's immediate eviction nor be a violation of the owner's or sponsor's loan agreement.

(B) If, after annual income certification, an assisted unit becomes occupied by a household which does not meet the income limits specified in Section 50105, that household shall be permitted to continue to occupy that assisted unit. When there is a vacancy in an assisted unit formerly occupied by a household which meets the income limits specified in Section 50079.5, that unit shall be rented to a household which meets the income limits specified in Section 50105.

(C) If, after annual income certification, an assisted unit becomes occupied by a household which does not meet the income limits specified in Section 50079.5, that household shall be provided a six-month notice of termination. That period may be extended for an additional six-month period in high cost rental areas with low vacancy rates, as determined by the department. That household shall have first right of refusal to occupy any nonassisted unit which becomes available during both periods.

(D) In the case of limited equity housing cooperatives, the provisions of subparagraph (C) shall apply, except that tenants whose incomes, upon recertification, exceed the limit specified in Section 50079.5 shall not be required to vacate their units. Instead, and upon six months' notice, these tenants shall be required to pay rent in an amount equal to the market rate rent for comparable units, as determined by the department. When a tenant's income exceeds the limit specified in Section 50079.5, the next available membership share for occupancy in a comparable unit shall be sold to a household with an income at or below this limit.

(d) (1) The department may contract with the sponsor to pay all or a portion of the development costs incurred in connection with the construction of a rental housing development consistent with the requirements of this article. The department shall include such provisions in the contract as are necessary to ensure compliance with the requirements of the program.

Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the department. The regulatory agreement shall be recorded or referenced in a recorded document in the office of the county recorder for the county in which the rental housing development is located. The regulatory agreement shall contain at least all of the following:

(A) Restrictions on occupancy of dwelling units within the rental housing development, to meet the requirements of Section 50736 and this section for a period of at least 40 years.

(B) Provisions governing standards for tenant selection to ensure occupancy by eligible households of very low and low income for the term of the regulatory agreement.

(C) Provisions governing occupancy standards and rental agreements.

(D) Provisions for setting initial rents and rent increases consistent with paragraph (1) of subdivision (c) of Section 50771.1. Prior to the time any rent increase is effective, the sponsor shall notify every affected tenant, in writing, of the availability of informal meetings with the sponsor to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the department pursuant to this subdivision.

(E) A requirement that the sponsor submit to the department for review and approval, annual operating budgets and periodic reports, which shall at a minimum include information on the fiscal condition of the rental housing development, the maintenance of the development, and the number of units occupied by eligible households.

(F) Provisions limiting distribution of sponsor's earnings as specified in paragraph (4).

(G) A provision which specifies the conditions under which the department and any intended beneficiary may enforce the regulatory agreement.

(H) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

The regulatory agreement shall be recorded against the property and shall be deemed a covenant running with the land and shall be binding upon the sponsor and any and all successors in interest in case of sale or transfer of the rental housing development for the original term of the loan, and any extensions thereof, regardless of any prepayment of the loan.

The department, by regulation, may require such other documents, instruments, and agreements as are reasonable and necessary to ensure compliance with the program requirements.

(2) The contract for the award of development funds to be provided as construction financing for a rental housing development shall contain at a minimum the provisions specified in Section 50766, excluding therefor subdivisions (j), (k), and (*l*).

(3) All state contracts and regulatory or development agreements subject to this article shall contain provisions requiring that assisted units remain affordable to eligible households for 40 years plus any permitted extension.

(4) A nonprofit sponsor, other than a governmental agency, may maintain a debt service coverage ratio of not more than 115 percent and distribute earnings from both assisted and nonassisted units in an amount no greater than 8 percent of the nonprofit sponsor's actual investment in the rental housing development. A for-profit sponsor may choose between the following options:

(A) It may distribute earnings from both assisted and nonassisted

units in an annual amount no greater than 8 percent of its actual investment in the rental housing development.

(B) It may forego distribution of earnings from assisted units, and not be subject to any limitation on the amount of distributions it receives from nonassisted units.

(e) Where loans will be used in conjunction with federal and other state housing assistance or tax credit and a conflict exists between the other state and federal program requirements and this chapter regarding the test for determining a qualified low-income housing project, the requirements of the Rental Housing Construction Program may be waived only to the extent necessary to permit the federal or other state financial participation or eligibility for tax credits.

(f) (1) The department shall establish specific minimum development criteria to (A) ensure that the useful life of the rental housing development is at least equal to the term of the loan; (B) enhance the physical security of the tenants; (C) minimize long-term operating and maintenance costs; and (D) ensure that project design features and amenities are modest.

(2) No energy standards shall be required of any housing development in excess of the energy standards required for housing developments financed by conventional funding sources.

(3) The department shall employ a licensed architect or an experienced building inspector, or both, to review plans, inspect, and monitor construction of, rental housing developments.

(g) A sponsor of a housing development may receive payments from the annuity fund pursuant to Section 50738 to the extent that there are unobligated moneys available in the fund.

(h) The department shall establish an emergency reserve account in the Rental Housing Construction Fund established pursuant to Section 50740 equal to 3 percent of the moneys transferred to subdivision (a) of Section 53130.

Moneys transferred to the fund pursuant to subdivision (a) of Section 53130 shall not be subject to the requirements of Section 50770 or be used to ensure economic feasibility or enable construction pursuant to Section 50738. Notwithstanding the provisions of Sections 53130 and 53133, the department may expend moneys in the account to defray unanticipated cost increases or revenue shortfalls not covered by a rental housing development emergency reserve to the extent necessary to maintain the fiscal integrity of a rental housing development and maintain affordable rents for eligible households.

Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating costs, and Section 53133, the department may use any amounts available in the account for the purpose of curing or avoiding a sponsor's defaults on the terms of any loan or other obligation which will jeopardize the financial integrity of a rental housing development or the department's security in the rental housing development. The

payment or advance of any funds by the department pursuant to this subdivision shall be solely within the discretion of the department, and no sponsor shall be entitled to, or have any right to, payment of these funds. Funds advanced pursuant to this subdivision shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

SEC. 4. Section 50771.3 of the Health and Safety Code is amended to read:

50771.3. The department may adopt, amend, or repeal emergency regulations to implement this chapter with respect to loans made with funds allocated pursuant to Section 53130. The adoption, amendment, or repeal of these regulations shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning, or purposes of Section 11346.1 of the Government Code. This authority shall remain in effect until June 30, 1991.

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. 5. Section 50736 of the Health and Safety Code is amended to read:

50736. (a) Not less than 30 percent of the units in each rental housing development consisting of ten or more units which receives any funds pursuant to this chapter shall be available on a priority basis to or occupied by eligible households pursuant to the agreement required by Section 50739, and not less than 20 percent of all the units in each rental housing development shall be available on a priority basis to, or occupied by, very low income households.

(b) Every sponsor shall, with respect to assisted units, conduct an affirmative marketing program, on a continuous basis, which program has been approved by the department or by the agency in cases where the agency provides financing. For the purposes of this subdivision, "affirmative marketing program" means any program approved by the department that is designed to achieve greater access to housing opportunities created by this chapter for eligible households. Such program shall include educational, promotional, and other appropriate activity designed to secure greater housing opportunities for those households. Where a significant number of persons in a community have limited fluency in the English language, publications implementing an affirmative marketing program in that community shall be provided in the native language of those persons.

(c) Of all assisted units, under this chapter, not less than two-thirds shall be allocated to very low income households and the balance for lower income households.

(d) Elderly or physically handicapped households shall be allocated not less than 20 percent, nor more than 30 percent, of the assisted units provided pursuant to this chapter. Other handicapped

households shall be eligible for assisted units pursuant to this subdivision or subdivision (a), (b), (c), or (e) if they otherwise meet the requirements imposed by those provisions.

(e) The department shall ensure that, in each fiscal year, not less than 20 percent of all moneys in the Rental Housing Construction Fund shall be allocated to rural areas.

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 permits the Department of Housing and Community Development to rank applications for funds under the Rental Housing Construction Program so as to allocate those funds more effectively, and extends emergency regulatory authority necessary to implement and continue the operation of the Rental Housing Construction Program, authorized by the Housing and Homeless Bond Act of 1988. The failure to provide continued authority to operate under the Department of Housing and Community Development's emergency regulations would jeopardize any loans that are made after June 30, 1990, and before the regulations are adopted in final form. Furthermore, there would be an undue interruption of the program which would result in a significant delay in making available this much-needed low-income housing financing source. This program fulfills immediate and critical housing needs throughout California. It is, therefore, necessary that this act take immediate effect.

CHAPTER 230

An act to amend Sections 1357 and 2702 of the Water Code, relating to water.

[Approved by Governor July 11, 1990. Filed with Secretary of State July 13, 1990.]

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

SECTION 1. Section 1357 of the Water Code is amended to read:

1357. The board may order a reconsideration of all or part of a decision or order on the board's own motion or on petition of any person interested in any application, permit, or license affected by the decision or order. The petition shall be filed within 30 days after adoption by the board of a decision or order. The authority of the board to order a reconsideration on its own motion shall expire 30 days after it has adopted a decision or order. The board shall order or deny reconsideration on a petition therefor within 90 days after the adoption of the decision or order.

SEC. 2. Section 2702 of the Water code is amended to read:

2702. (a) The board may order a reconsideration of all or part of an order of determination on the board's own motion or on petition of any party affected by the order. The petition shall be filed within 30 days after the notice required by Section 2701 is sent. The authority of the board to order a reconsideration on its own motion shall expire 30 days after the board has adopted the order. The board shall order or deny reconsideration on a petition for reconsideration within 90 days after the notice required by Section 2701 is sent.

(b) The order of determination may be reconsidered by the board on all the pertinent parts of the record and any arguments as may be permitted, or a further hearing may be held, upon notice to all affected parties, for the purpose of receiving additional evidence that the board may, for cause, allow. The order on reconsideration has the same force and effect as an original order.

CHAPTER 231

An act to repeal Section 54992.3 of the Government Code, and to amend Sections 44006, 46203, 46400, and 46401 of, and to repeal Section 41341 of, the Public Resources Code, relating to waste management.

[Approved by Governor July 11, 1990. Filed with Secretary of State July 13, 1990.]

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

SECTION 1. Section 54992.3 of the Government Code is repealed.

SEC. 2. Section 41341 of the Public Resources Code, as added by Chapter 908 of the Statutes of 1989, is repealed.

SEC. 3. Section 44006 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is amended to read:

44006. (a) Each report or application filed under this article shall be submitted under oath or under penalty of perjury.

(b) Each report, notice, or application filed under this article shall be submitted on a form approved by the board.

(c) Each application required to be filed under this article shall be accompanied by a filing fee according to a fee schedule established by the enforcement agency to reflect the cost of processing the application and to recover costs incurred in meeting the requirements of Article 3 (commencing with Section 43500) and Article 4 (commencing with Section 43600) of Chapter 2. This fee is in addition to the fees authorized by Chapter 8 (commencing with Section 41900) of Part 2.

SEC. 4. Section 46203 of the Public Resources Code is amended to read:

46203. The board may provide grants, pursuant to Chapter 5

(commencing with Section 46400), to cities, counties, or local agencies with responsibility for waste management 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 fiscal year.

SEC. 5. Section 46400 of the Public Resources Code is amended to read:

46400. The board may make grants of funds in the account to a city, county, or local agency with responsibility for waste management for any of the following purposes related to the safe operation, closure, and maintenance of solid waste landfills operating on or after January 1, 1990.

(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.

SEC. 6. Section 46401 of the Public Resources Code is amended to read:

46401. If a city, county, or local agency with responsibility for waste management has already funded the type of program described in Section 46400 locally, the board shall award a minimum grant of funds from the account to reimburse that city, county, or local agency for the actual cost of the local program in that fiscal year or 20 percent of the fees generated or anticipated to be generated in the city, county, or local agency into the account during that 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 adopted pursuant to Section 46205.

CHAPTER 232

An act to amend Section 21460.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 13, 1990]

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

SECTION 1. Section 21460.5 of the Vehicle Code is amended to read:

21460.5. (a) The Department of Transportation and local authorities in their respective jurisdictions may designate a two-way left-turn lane on a highway. A two-way left-turn lane is a lane near the center of the highway set aside for use by vehicles making left turns in both directions from or into the highway.

(b) Two-way left-turn lanes shall be designated by distinctive roadway markings consisting of parallel double yellow lines, interior line dashed and exterior line solid, on each side of the lane. The Department of Transportation may determine and prescribe standards and specifications governing length, width, and positioning of the distinctive pavement markings. All pavement markings designating a two-way left-turn lane shall conform to the Department of Transportation's standards and specifications.

(c) A vehicle shall not be driven in a designated two-way left-turn lane except when preparing for or making a left turn from or into a highway or when preparing for or making a U-turn when otherwise permitted by law, and shall not be driven in that lane for more than 200 feet while preparing for and making the turn or while preparing to merge into the adjacent lanes of travel. A left turn or U-turn shall not be made from any other lane where a two-way left-turn lane has been designated.

(d) This section does not prohibit driving across a two-way left-turn lane.

(e) Raised pavement markers may be used to simulate the painted lines described in this section when those markers are placed in accordance with standards established by the Department of Transportation.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 233

An act to amend Sections 12578, 12633, and 12692 of the Health and Safety Code, relating to fireworks.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 13, 1990.]

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

SECTION 1. Section 12578 of the Health and Safety Code is amended to read:

12578. The State Fire Marshal shall adopt regulations that identify and specify the scope of each class of pyrotechnic operator license. A pyrotechnic operator license shall allow the licensee to handle, supervise, or discharge dangerous fireworks at public displays of all types, and to handle, supervise, or discharge rockets and special effects pyrotechnic devices which produce an audible or visual effect in connection with group entertainment or motion picture productions which may or may not be held before live audiences.

SEC. 2. Section 12633 of the Health and Safety Code is amended to read:

12633. The original and annual renewal application for registration of each model of emergency signaling devices shall be made to the State Fire Marshal. A registration fee established and collected by the State Fire Marshal for each model of signaling device shall accompany each application.

SEC. 3. Section 12692 of the Health and Safety Code is amended to read:

12692. This chapter shall not prohibit the operations or functions of a licensed pyrotechnic operator holding a special effects license when the operations or functions are a necessary part of the production and are performed pursuant to a valid permit issued by the authority having jurisdiction.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 234

An act to amend Section 77301 of the Government Code, relating to trial court funding.

[Approved by Governor July 11, 1990. Filed with Secretary of State July 13, 1990]

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

SECTION 1. Section 77301 of the Government Code is amended to read:

77301. A county shall notify the state of its decision to opt into the system by transmitting to the Secretary of State and the Controller a resolution, agreeing without qualification or condition to be bound by the provisions of this chapter in consideration for state funding of trail 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 and justice courts in the county requests state funding. However, in a county having only one superior court judge, no municipal court judge, and only one justice court judge who serves one-fifth time, as determined by the Judicial Council, only the superior court judge may so sign and certify for the judges of the county.

The option notification for the second half of the 1988–89 fiscal year shall be deemed effective on January 1, 1989. In subsequent years, the option notification shall become effective for the full fiscal year on the July 1 following notification, if sufficient moneys have been appropriated in the Budget Act for the fiscal year to adequately fund the program.

CHAPTER 235

An act to amend Section 69503.4 of the Government Code, relating to records.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 13, 1990]

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

SECTION 1. Section 69503.4 of the Government Code is

amended to read:

69503.4. (a) Prior to the destruction of any court papers and records which are open to public inspection, the clerk of the superior court shall give notice of the proposed destruction to all of the following:

(1) The Secretary of State.

(2) Any city or county museum or archive in the county.

(3) Any law school in the state accredited by the State Bar Association of California.

(4) Any regionally accredited university or four-year college located in this state.

(5) Any nonprofit, privately endowed library or research institution or any state or local historical society that will undertake to keep and preserve these records according to commonly recognized archival principles and practices of preservation and access and that is located in this state.

(b) Entities named in subdivision (a) who respond in writing that they do not wish to take possession of court records now or in the future shall no longer be noticed by the clerk of the superior court.

(c) (1) If any or all of the entities named in subdivision (a) requests the court papers and records within six months after the date of mailing of the notice by the clerk of the superior court, the records and papers shall be permanently transferred to that entity upon written order of the presiding judge unless for good cause shown the request is denied. The cost of transferring the records and papers shall be borne by the requesting party.

(2) If two or more entities named in subdivision (a) request the same records and papers, the presiding judge shall order the transfer of those records and papers to the entity that shows the greatest capability to care for and preserve the records according to commonly recognized archival principles and practices of preservation and access, and provides the greatest likelihood of making them available for historical or research purposes.

(3) In no event shall an entity receive any papers or records unless the entity provides complete and open access to all individuals who wish access without distinction or discrimination and agrees to provide access to the material during normal business hours.

(d) If no request for transfer has been received within six months, or in the case of historical records as provided in Section 69503, two years, after the date of mailing of the notice, the clerk of the superior court may destroy the papers and records not designated for the special sample as provided in subdivision (e) of Section 69503, pursuant to a written order of the presiding judge of the court. The clerk of the superior court shall enter destruction information on the index pursuant to Section 69842 or on a separate destruction index.

(e) If an entity that has taken possession of records and papers pursuant to this section is no longer willing or able to retain them in accordance with the standards specified in this section, that entity shall notify the clerk of the superior court from which the records

originated and the clerk shall give notice of the proposed destruction of these records as set forth in subdivision (a).

(f) (1) Any person who willfully fails to notify the clerk of the superior court as required by subdivision (e), or who willfully engages in the sale or commercial exploitation of any original records and papers that have been transferred pursuant to this section is guilty of a misdemeanor.

(2) For the purposes of this section, "person" has the meaning specified in Section 17.

SEC. 3. 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 236

An act to amend Section 640 of, and to add Section 642.5 to, the Military and Veterans Code, relating to military service.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 13, 1990]

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

SECTION 1. Section 640 of the Military and Veterans Code is amended to read:

640. The following decorations are authorized for members of the National Guard, State Military Reserve, and Naval Militia:

(a) Medal of Valor.
(b) Military Cross.
(c) Order of California.
(d) Memorial Medal.
(e) Medal of Merit.
(f) Commendation Medal.

(g) Service Medal.
(h) Good Conduct Medal.

The Order of California, Medal of Merit, and Commendation Medal are also authorized for award to civilians and members of other military services who bring honor to the State of California by their actions.

The Adjutant General may provide and procure appropriate emblematic devices for each decoration, together with suitable ribbons and insignia to be worn with or in place of the medal.

SEC. 2. Section 642.5 is added to the Military and Veterans Code, to read:

642.5. A Memorial Medal may be presented posthumously to any person who, while an officer, warrant officer, or enlisted member of the National Guard, the State Military Reserve, or the Naval Militia is killed in the service of the state or the United States.

CHAPTER 237

An act relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1990. Filed with Secretary of State July 13, 1990.]

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

SECTION 1. The Legislature finds and declares that in 1989, the El Medio Fire Protection District, in the County of Butte, began proceedings under the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) to annex certain surrounding areas into the fire protection district.

The Legislature finds and declares that the Butte County Local Agency Formation Commission approved the annexation in December 1989, and that due to circumstances beyond the control of the affected parties, there was not sufficient time to file the required statements and maps in compliance with Sections 54902 and 54903 of the Government Code. The Legislature further finds and declares that the El Medio Fire Protection District is a small district which could not easily absorb the costs of providing necessary services to the annexed areas in the 1990–91 fiscal year without the assessment and taxation authority pursuant to Sections 54902 and 54903 of the Government Code, and that a relatively short extension of time from the deadline for filing the statements and maps with each assessor whose roll is used and with the State Board of Equalization is, therefore, necessary to complete that process.

SEC. 2. Due to the unique circumstances surrounding this annexation, 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. 3. The annexation of certain surrounding areas by the El Medio Fire Protection District, as approved by the Butte County Local Agency Formation Commission in December 1989, shall be effective for assessment and taxation purposes for the 1990–91 fiscal year if: (1) the governing board of the El Medio Fire Protection District both requests the assessment and levy of the district's special tax, and agrees to reimburse the county for its administrative costs associated with the assessment, levy, and collection of the special tax, (2) the statements and maps, as required in Sections 54902 and 54903, are filed with each assessor whose assessment roll is used and with the State Board of Equalization on or before July 31, 1990, and (3) the district forwards to the Butte County Auditor detailed information on the tax levy for each parcel. This section shall apply only to the assessment and taxation of the El Medio Fire Protection District's special tax, as approved by the district voters in 1980.

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 persons in the areas annexed by the El Medio Fire Protection District essential fire protection and other emergency services, it is necessary that this act take immediate effect.

CHAPTER 238

An act to amend Section 24045.7 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 13, 1990]

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

SECTION 1. Section 24045.7 of the Business and Professions Code is amended to read:

24045.7. (a) The department may issue a special on-sale general license to any nonprofit theater company which has been in existence for at least 10 years and which is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States.

Theater companies holding a license under this section may, subject to Section 25631, sell and serve alcoholic beverages to ticketholders only during, and two hours prior to and one hour after, a bona fide theater performance of the company.

An applicant for such a license shall accompany the application with an original issuance fee of one thousand dollars ($1,000) and shall pay an annual renewal fee as provided in subdivision (30) of Section 23320.

(b) The department may issue a special on-sale beer and wine license to any nonprofit theater company which has been in existence for at least eight years, which for at least six years has performed in facilities leased or rented from a local county fair association, and which is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States.

Theater companies holding a license under this subdivision may, subject to Section 25631, sell and serve beer and wine to ticketholders only during, and two hours prior to, a bona fide theater performance of the company. Beer and wine may be sold from an open-air concession stand which is not attached to the theater building itself, if the concession stand is located on fair association property within 30 feet of the theater building and the alcoholic beverages sold is consumed only in the theater building itself, or within a designated outdoor area in front of and between the concession stand and the main public entrance to the theater building. Nothing in this section permits a theater company to sell beer or wine during the run of a county fair.

An applicant for a license under this subdivision shall accompany the application with an original issuance fee equal to the annual renewal fee and shall pay an annual renewal fee as provided in subdivision (23) of Section 23320.

CHAPTER 239

An act to amend Section 29202 of the Elections Code, relating to elections.

[Approved by Governor July 11, 1990. Filed with Secretary of State July 13, 1990]

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

SECTION 1. Section 29202 of the Elections Code is amended to read:

29202. Any person who knowingly or negligently (a) interferes with the prompt transfer of a completed affidavit of registration to the county elections official, or (b) retains a voter's completed registration card, without the voter's authorization, for more than three days, excluding Saturdays, Sundays, and state holidays, or after the close of registration, or (c) denies a voter the right to return to the county elections official the voter's own completed registration card is guilty of a misdemeanor punishable by a fine not to exceed

one thousand dollars ($1,000).

CHAPTER 240

An act to amend Section 98.6 of, and to add Section 98.65 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 13, 1990]

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

SECTION 1. Section 98.6 of the Revenue and Taxation Code is amended to read:

98.6. (a) Notwithstanding any other provision of this chapter except Section 98.65, 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) Notwithstanding paragraph (3), for the 1988–89 fiscal year and each fiscal year thereafter, the amount computed for each special district, which, on or after July 1, 1988, ceases to be governed by the county board of supervisors or whose governing body ceases to be the same as the county board of supervisors, shall not be greater than the average annual amount computed for the last three full fiscal years in which the special district was governed by the county board of supervisors or its governing body was the same as the county board of supervisors.

(5) 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).

(6) 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.

(5) Notwithstanding the limits of paragraph (2), the governing body of Monterey County or Santa Cruz County may accrue annually 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 for the costs specified in paragraph (2). However, the total amount that may be accrued pursuant to this paragraph shall not exceed 4 percent of the amount of the Special District Augmentation Fund. Any interest which accrues to this special account shall be considered part of this account and shall not be allocated or distributed in any way to the general fund of the governing body.

(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. 2. Section 98.65 is added to the Revenue and Taxation Code, to read:

98.65. (a) For the 1989–90 and 1990–91 fiscal years, property tax revenue shall be allocated by the Sacramento County Auditor to special districts, as defined in subdivision (b), consistent with the holding of American River Fire Protection District v. Board of Supervisors (1989) 211 Cal. App. 3d 1076 and as implemented in American River Fire Protection District, et al. v. Board of Supervisors of the County of Sacramento, et al., Sacramento Superior Court Case No. 431637, and for the 1991–92 fiscal year and each fiscal year thereafter, shall be allocated pursuant to subdivisions (c), (d), and (e).

(b) Notwithstanding Section 98.6, the amount allocated for the 1990–91 fiscal year and each fiscal year thereafter pursuant to Section 96 or 97, and Section 98 to a special district, as defined in Article 1

(commencing with Section 2201) of Chapter 3 of Part 4, including that portion of any multicounty district located within the County of Sacramento, and the amount allocated pursuant to Section 75.70 to a special district which is governed by the Board of Supervisors of Sacramento County or whose governing body is the same as the Board of Supervisors of Sacramento County, shall be governed by this section.

(c) Notwithstanding Section 98.6, for the 1991–92 fiscal year, the amount of property tax revenue that would otherwise be allocated to the special districts described in subdivision (b) pursuant to Section 75.70, or Section 96 or 97 and Section 98, shall be reduced or otherwise adjusted by the difference between the following amounts:

(1) The reduction, if any, made to the amount of property tax revenues allocated to each special district pursuant to Section 98.6 in the 1990–91 fiscal year as determined by the Sacramento County Auditor.

(2) The allocations approved by the Board of Supervisors of the County of Sacramento to each special district pursuant to Section 98.6 in the 1990–91 fiscal year.

(d) Notwithstanding any other provision of law, for the 1992–93 fiscal year and each fiscal year thereafter, the Sacramento County Auditor shall allocate to the special districts described in subdivision (b) the total amount of property tax revenue allocated in the prior fiscal year as calculated in subdivisions (c) and (e).

(e) Notwithstanding subdivisions (a) and (b) of Section 97, for the 1991–92 fiscal year and each fiscal year thereafter, the annual tax increment as defined in subdivision (c) of Section 97 for the special districts described in subdivision (b) in each tax rate area shall be the sum of the following amounts:

(1) Each special district's share of property tax revenues in each of the tax rate areas within their respective jurisdictions without regard to this subdivision.

(2) The ratio of the amount determined for each special district in subdivision (c) and the special district's property tax revenue for the 1990–91 fiscal year, multiplied by the special district's share of property tax revenues in each tax rate area for the 1990–91 fiscal year.

(f) The Special District Augmentation Fund in the County of Sacramento shall be terminated as of June 30, 1991.

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 unique circumstances in Sacramento County. The Legislature finds, therefore, that this special act is necessary. The facts constituting this necessity are:

Sacramento County and special districts located therein bear special and unique burdens in complying with recent judicial decisions with regard to tax revenue allocations, and thereby require a special allocation process to ensure the orderly and proper

management and expenditure of public funds.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act affirms for the state, as described in subdivision (b) of Section 17556 of the Government Code, that which has been declared to be existing law in American River Fire Protection District v. Board of Supervisors (1989) 211 Cal. App. 3d 1076 and has been implemented in American River Fire Protection District, et al. v. Board of Supervisors of the County of Sacramento, et al., Sacramento Superior Court Case No. 341637. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 241

An act to amend Sections 15630 and 15634 of the Welfare and Institutions Code, relating to aging.

[Approved by Governor July 11, 1990. Filed with Secretary of State July 13, 1990.]

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

SECTION 1. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. (a) (1) Any elder or dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency, who in his or her professional capacity or within the scope of his or her employment, either has observed an incident that reasonably appears to be physical abuse, has observed a physical injury where the nature of the injury, its location on the body, or the repetition of the injury, clearly indicates that physical abuse has occurred, or is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, shall report the known or suspected instance of physical abuse either to the long-term care ombudsman coordinator or to a local law enforcement agency when the physical abuse is alleged to have occurred in a long-term care facility, or to either the county adult protective services agency or to a local law enforcement agency when the physical abuse is alleged to have occurred anywhere else, immediately or as soon as possible by telephone, and shall prepare and send a written report thereof within two working days.

(2) The reports required by this section should contain the following information unless the information is unavailable by the person reporting:

(A) The name, address, telephone number, and occupation of the

person reporting.

(B) The name and address of the victim.

(C) The date, time, and place of the incident.

(D) Other details, including the reporter's observations and beliefs concerning the incident.

(E) Any statement relating to the incident made by the victim.

(F) The name of any individuals believed to have knowledge of the incident.

(G) The name of the individuals believed to be responsible for the incident and their connection to the victim.

(b) When two or more persons who are required to report have knowledge of a known or suspected physical abuse of an elder or dependent adult, the telephone report shall be made by a member of the team selected by mutual agreement, and a single report shall be made and signed by a 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.

(c) Any care custodian, health practitioner, or employee of an adult protective services agency or local law enforcement agency who has knowledge of or reasonably suspects that other types of elder or dependent adult abuse have been inflicted upon an elder or dependent adult or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse either to a long-term care ombudsman coordinator when the abuse is alleged to have occurred in a long-term care facility, or to the county adult protective services agency when the abuse is alleged to have occurred anywhere else. If the conduct involves criminal activity not already covered by subdivision (a), it may be immediately reported to the appropriate law enforcement agency.

(d) When two or more persons who are required to report are present and jointly have knowledge or reasonably suspect that other types of abuse of an elder or a dependent adult have occurred, 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 the 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.

(e) The reporting duties under this section are individual, and no supervisor or administrator shall 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, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(f) (1) An adult protective services agency shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case, and to any

public agency given responsibility for investigation in that jurisdiction of cases of elder and dependent adult abuse, every known or suspected instance of physical abuse of an elder or dependent adult. A county adult protective services agency shall also send a written report thereof within two working days of receiving the information concerning the incident to each agency to which it is required to make a telephone report under this subdivision.

Only a written report, sent within two working days, shall be required in the case of types of elder and dependent adult abuse other than physical abuse.

If an adult protective services agency receives a report of abuse alleged to have occurred in a long-term care facility, that adult protective services agency shall immediately inform the person making the report that he or she must make it to the long-term care ombudsman coordinator or to a local law enforcement agency. The adult protective services agency shall not accept the reports.

(2) If an adult protective services agency or local law enforcement agency or ombudsman program receiving a report of known or suspected elder or dependent adult abuse involving physical abuse or neglect determines, pursuant to its investigation, that the abuse is being committed by a health practitioner licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any related initiative act, or by a person purporting to be such a licensee, the adult protective services agency or local law enforcement agency or ombudsman program shall immediately report this information to the appropriate licensing agency. The licensing agency shall investigate the report in light of the potential for physical harm. The transmittal of information to the appropriate licensing agency shall not relieve the adult protective services agency or local law enforcement agency or ombudsman program of the responsibility to continue its own investigation as required under applicable provisions of law. The information reported pursuant to this paragraph shall remain confidential and shall not be disclosed.

(g) A law enforcement agency shall immediately or as soon as practically possible report by telephone to the long-term care ombudsman coordinator when the abuse is alleged to have occurred in a long-term care facility or to the county adult protective services agency when it is alleged to have occurred anywhere else, and to the agency given responsibility for the investigation of cases of elder and dependent adult abuse every known or suspected instance of abuse of an elder or a dependent adult. A law enforcement agency shall also send a written report thereof within two working days of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

(h) A long-term care ombudsman coordinator may report the instance of abuse to the county adult protective services agency or to the local law enforcement agency for assistance in the investigation of the abuse if the victim gives his or her consent.

A long-term care ombudsman coordinator and the Licensing and Certification Division of the State Department of Health Services shall immediately report by telephone and in writing within two working days to the bureau any instance of neglect occurring in a health care facility, which has seriously harmed any patient or reasonably appears to present a serious threat to the health or physical well-being of a patient in that facility. If a victim or potential victim of the neglect withholds consent to being identified in that report, the report shall contain circumstantial information about the neglect but shall not identify that victim or potential victim and the bureau and the reporting agency shall maintain the confidentiality of the report until the time at which the report becomes a matter of public record.

(i) When a county adult protective services agency, a long-term care ombudsman coordinator, or a local law enforcement agency receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, that county adult protective services agency, long-term care ombudsman coordinator, or local law enforcement agency shall report the incident to the licensing agency by telephone as soon as possible.

(j) Each long-term care ombudsman coordinator shall report to the county adult protective services agency monthly on the reports it receives pursuant to this chapter. The reports shall be on forms adopted by the department. The information reported shall include, but shall not be limited to, the number of incidents of abuse, the number of persons abused, the type of abuse, and the actions taken on the reports. For purposes of these reports, sexual abuse shall be reported separately from physical abuse.

(k) Each county adult protective services agency shall report to the State Department of Social Services monthly on the reports received pursuant to this chapter. The reports shall be made on forms adopted by the department. The information reported shall include, but shall not be limited to, the number of incidents of abuse, the number of persons abused, the type of abuse sustained, and the actions taken on the reports. For purposes of these reports, sexual abuse shall be reported separately from physical abuse.

The county's report to the department shall include reports it receives from the long-term care ombudsman coordinator pursuant to subdivision (j).

The State Department of Social Services shall refer to the bureau monthly summaries of the reports of elder and dependent adult abuse, neglect, and abandonment which it receives from county adult protective services agencies.

SEC. 2. Section 15634 of the Welfare and Institutions Code is amended to read:

15634. (a) No care custodian, health practitioner or employee of an adult protective service agency or a local law enforcement agency who reports a known or suspected instance of elder or dependent

adult 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 elder or dependent adult abuse shall not incur civil or criminal liability as a result of any report authorized by this article, unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, or any person taking photographs at his or her discretion, shall incur any civil or criminal liability for taking photographs of a suspected victim of elder or dependent adult abuse or causing photographs to be taken of such a suspected victim or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any care custodian, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency, provides the requesting agency with access to the victim of a known or suspected instance of elder or dependent adult 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 elder or dependent adult abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of 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 care custodian, health practitioner, or an employee of an adult protective services agency or a local law enforcement agency 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 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) Any person who fails to report an instance of elder or dependent adult abuse, as required by this article, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, by a fine of not exceeding one thousand

dollars ($1,000), or by both that fine and imprisonment.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 242

An act to amend Section 104.17 of, and to add Sections 104.18 and 580.2 to, the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 13, 1990]

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

SECTION 1. Section 104.17 of the Streets and Highways Code is amended to read:

104.17. (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 on the northeast corner of Route 101 and De La Vina Street in the County of Santa Barbara, to a city, county, or other political subdivision or another state agency 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) Any lease executed pursuant to subdivision (a) for airspace under the interchange of Route 4 and Route 5 in San Joaquin County shall provide for the rescission of existing leases of this airspace between the department and the City of Stockton and for the refunding of any rent paid pursuant to those leases for periods commencing on or after January 1, 1988.

SEC. 2. Section 104.18 is added to the Streets and Highways Code, to read:

104.18. (a) Real property in the City of San Diego between 17th Street and the west side of Route 5 between the southbound onramp and the offramp near J Street, which was acquired for highway purposes and which is not excess property, may be leased by the department to a city, county, or other political subdivision or another state agency for emergency shelter or feeding program purposes.

(b) 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. The lease shall require the payment of an administrative fee not to exceed five hundred dollars ($500) per year, unless the department determines that a higher administrative fee is necessary, for the department's cost of administering the lease.

(c) The Legislature finds and declares that the lease of real property pursuant to this section serves a public purpose.

SEC. 3. The Legislature hereby finds and declares as follows:

(a) Certain parcels of land in the City and County of San Francisco were originally acquired by the Department of Transportation with the aid and participation of the federal government pursuant to the Federal Aid to Highways Act. The land was to be used as part of the Interstate 280 Freeway in San Francisco between Sixth Street, the San Francisco-Oakland Bay Bridge, and State Route 480. The Federal Highway Administration subsequently approved the withdrawal of that portion of Route 280 between Sixth Street and the San Francisco-Oakland Bay Bridge from the Interstate System, and approved the alternatives contained in the I-280 Transfer Concept Program. On June 19, 1986, the Federal Highway Administration was advised of the final selection of six substitute projects agreed upon by the City and County of San Francisco, the department, and the Metropolitan Transportation Commission.

(b) A public highway purpose is served by transferring the real property described in this act to the City and County of San Francisco for approved substitute transportation projects.

SEC. 4. Section 580.2 is added to the Streets and Highways Code, to read:

580.2. (a) Notwithstanding any other provision of law and subject to subdivision (b), the department shall convey to the City and County of San Francisco, at no cost, the title to real property originally acquired by the department for the portion of Route 280 which was subsequently withdrawn from the Interstate System, which is jointly determined by the department and the City and County of San Francisco to be required for rights-of-way for the substitute transportation projects approved by the Federal Highway Administration.

(b) The department shall not convey title to that real property, unless the City and County of San Francisco agrees to assume full responsibility for any unsatisfied contractual and legal obligations

incurred by the department when the department acquired the property.

(c) If the real property ceases to be used for one of the six substitute projects that were included in the I-280 Transfer Concept Program which was reported to the Federal Highway Administration on June 19, 1986, title to the real property shall revert to the department.

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 real property, which is no longer needed for the state highway purposes for which it was acquired, or which is being held for future highway use, may be made available at the earliest possible time for essential approved substitute transportation projects, or be temporarily used for other public purposes, it is necessary for this act to take effect immediately.

CHAPTER 243

An act to add Section 66455.1 to the Government Code, relating to land use.

[Approved by Governor July 11, 1990. Filed with Secretary of State July 13, 1990]

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

SECTION 1. Section 66455.1 is added to the Government Code, to read:

66455.1. The Department of Water Resources may file with the legislative body of any local agency having jurisdiction, a map or amended map of any territory within one mile on either or both sides of any facility of the State Water Resources Development System, in which territory it believes a proposed subdivision may have an effect upon any existing facility of the State Water Resources Development System, or planned future facility of the State Water Resources Development System.

The city or county having jurisdiction shall issue a receipt for the territorial map and shall transmit, within three days of receipt, to the department, one copy of each tentative map of any proposed subdivision located, in whole or in part, within the territory outlined on the territorial map. The city or county shall submit the tentative maps to the office of the department nearest the subdivision, unless the department specifies a different office on the territorial map filed with the local agency.

The department, within 15 days after receiving a copy of a proposed subdivision map, may make recommendations to the local

agency regarding the effect of the proposed subdivision upon the State Water Resources Development System or proposed additions thereto.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 244

An act to amend Sections 5020, 5021, 5022, 5120, and 5122 of, and to repeal Section 5020.3 of, the Business and Professions Code, relating to accountants.

[Approved by Governor July 11, 1990 Filed with Secretary of State July 13, 1990]

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

SECTION 1. Section 5020 of the Business and Professions Code is amended to read:

5020. The board shall appoint an administrative committee of not less than three nor more than five members who shall be public accountants, and not less than 10 nor more than 12 members who shall be certified public accountants, to perform any of the following duties, and the committee shall be vested with the full powers of the board for those purposes:

(a) To receive and investigate complaints and to initiate and conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of public accountants and certified public accountants.

(b) To receive and investigate complaints and to initiate and conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving any violation or alleged violation of this chapter by public accountants and certified public accountants.

SEC. 2. Section 5020.3 of the Business and Professions Code is repealed.

SEC. 3. Section 5021 of the Business and Professions Code is amended to read:

5021. The members of the administrative committee shall hold office for one year.

SEC. 4. Section 5022 of the Business and Professions Code is

amended to read:

5022. The committee shall make recommendations and forward its report to the board for action on any matter on which it is authorized to act. Any applicant for registration as a certified public accountant who is aggrieved by any action taken by the committee with respect to his or her qualifications may appeal to the board in accordance with rules or regulations prescribed by the board. The board on the appeal may give an oral or written examination as an aid in determining whether the applicant is qualified under the terms of this chapter.

SEC. 5. Section 5120 of the Business and Professions Code is amended to read:

5120. Any person who violates Article 3 (commencing with Section 5050) is guilty of a misdemeanor, punishable by imprisonment for not more than six months, or by a fine of not more than one thousand dollars ($1,000), or both.

Whenever the board has reason to believe that any person is liable to punishment under this article, the board or with its approval the administrative committee, may certify the facts to the appropriate enforcement officer of the city or county where the alleged violation had taken place and the officer may cause appropriate proceedings to be brought.

SEC. 6. Section 5122 of the Business and Professions Code is amended to read:

5122. Whenever in the judgment of the board, or with its approval the administrative committee, any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the board may make application to the appropriate court for an order enjoining the acts or practices, and upon showing by the board that the person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or other order that may be appropriate shall be granted by the court.

CHAPTER 245

An act to add and repeal Section 13963.1 of the Government Code, relating to victims of crime.

[Approved by Governor July 11, 1990. Filed with Secretary of State July 13, 1990.]

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

SECTION 1. Section 13963.1 is added to the Government Code, to read:

13963.1. Notwithstanding Section 11123, the board may exclude from the hearing all persons other than board members and

members of its staff, the victim, the victim's parents or guardians, the victim's representative, any witnesses, and other persons of the victim's choice to provide assistance to the victim during the hearing, if the application that the board is considering is the result of either a crime against a minor or a crime of sexual assault.

The board may not exclude persons from a hearing to which this section applies if the victim or the victim's representative requests that the hearing be open to the public.

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 chaptered prior to January 1, 1994, deletes or extends that date.

CHAPTER 246

An act to amend Section 676 of, and to amend and repeal Section 827 of, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor July 12, 1990 Filed with Secretary of State July 13, 1990.]

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 incidence of violent crime among juveniles has reached epidemic proportions in many areas of the state.

(2) It is unconscionable that law-abiding members of a community, victimized by violent criminals, are unable to obtain information about court proceedings paid for by their tax dollars.

(3) The policy of confidentiality of juvenile court records should be tempered by considerations of the safety and well-being of the communities served by those courts.

(b) It is the intent of the Legislature that judges of the juvenile court shall use their authority pursuant to subdivision (a) of Section 827 of the Welfare and Institutions Code to ensure that members of the public are adequately informed about juvenile court proceedings that affect their lives, or the general quality of life in their communities.

SEC. 2. Section 676 of the Welfare and Institutions Code is amended to read:

676. (a) Unless requested by the minor concerning whom the petition has been filed and any parent or guardian present, the public shall not be admitted to a juvenile court hearing. Nothing in this section shall preclude the attendance of up to two family members of a prosecuting witness for the support of that witness, as authorized by Section 868.5 of the Penal Code. The judge or referee may nevertheless admit those persons he or she deems to have a direct and legitimate interest in the particular case or the work of the

court. However, except as provided in subdivision (b), members of the public shall be admitted, on the same basis as they may be admitted to trials in a court of criminal jurisdiction, to hearings concerning petitions filed pursuant to Section 602 alleging that a minor is a person described in Section 602 by reason of the violation of any one of the following offenses:

(1) Murder.

(2) Arson of an inhabited building.

(3) Robbery while armed with a dangerous or deadly weapon.

(4) Rape with force or violence or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(7) Any offense specified in Section 289 of the Penal Code.

(8) Kidnapping for ransom.

(9) Kidnapping for purpose of robbery.

(10) Kidnapping with bodily harm.

(11) Assault with intent to murder or attempted murder.

(12) Assault with a firearm or destructive device.

(13) Assault by any means of force likely to produce great bodily injury.

(14) Discharge of a firearm into an inhabited or occupied building.

(15) Any offense described in Section 1203.09 of the Penal Code.

(16) Any offense described in Section 12022.5 of the Penal Code.

(17) Any felony offense in which a minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(18) Burglary of an inhabited dwelling house or trailer coach, as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, if the minor previously has been adjudged a ward of the court by reason of the commission of any offense listed in this section, including an offense listed in this paragraph.

(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Any offense as specified in Sections 11351, 11351.5, 11352, 11378, 11378.5, 11379, and 11379.5 of the Health and Safety Code.

(21) Criminal street gang activity which constitutes a felony pursuant to Section 186.22 of the Penal Code.

(22) Manslaughter as specified in Section 192 of the Penal Code.

(23) Drive-by shooting or discharge of a weapon from or at a motor vehicle as specified in Sections 246, 247, and 12034 of the Penal Code.

(24) Any crime committed with an assault weapon, as defined in Section 12276 of the Penal Code, including possession of an assault weapon as specified in subdivision (b) of Section 12280 of the Penal Code.

(b) Where the petition filed alleges that the minor is a person described in Section 602 by reason of the commission of rape with

force or violence or great bodily harm; sodomy by force, violence, duress, menace, or threat of great bodily harm; oral copulation by force, violence, duress, menace, or threat of great bodily harm; or any offense specified in Section 289 of the Penal Code, members of the public shall not be admitted to the hearing in either of the following instances:

(1) Upon a motion for a closed hearing by the district attorney, who shall make the motion if so requested by the victim.

(2) During the victim's testimony, if, at the time of the offense the victim was under 16 years of age.

(c) The name of a minor found to have committed one of the offenses listed in subdivision (a) shall not be confidential, unless the court, for good cause, so orders.

(d) Notwithstanding Sections 827 and 828 and subject to subdivisions (e) and (f), when a petition is sustained for any offense listed in subdivision (a), the charging petition, the minutes of the proceeding, and the orders of adjudication and disposition of the court that are contained in the court file shall be available for public inspection. Nothing in this subdivision shall be construed to authorize public access to any other documents in the court file.

(e) The probation officer or any party may petition the juvenile court to prohibit disclosure to the public of any file or record. The juvenile court shall prohibit the disclosure if it appears that the harm to the minor, victims, witnesses, or public from the public disclosure outweighs the benefit of public knowledge.

(f) Nothing in this section shall be applied to limit the disclosure of information as otherwise provided for by law.

SEC. 3. Section 827 of the Welfare and Institutions Code, as amended by Section 11 of Chapter 1423 of the Statutes of 1984, is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the district attorney, the minor who is the subject of the proceeding, his or her parents or guardian, the attorneys for the parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor. Child protective agencies, as defined in subdivision (k) of Section 11165 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a

probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases dissemination of juvenile court records be as limited as possible consistent with the need to work with a student in an appropriate fashion, and the need to protect potentially vulnerable school staff and other students over whom school staff exercise direct supervision and responsibility.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school in kindergarten or grades 1 to 12, inclusive, has been found by a court of competent jurisdiction to have used, sold, or possessed narcotics or a controlled substance or to have committed any crime listed in paragraphs (1) to (15), inclusive, or (17) to (19), inclusive, of subdivision (b) of Section 707 shall be provided by the court, within seven days, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to any teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the minor who the superintendent or his or her designee, after consultation with the principal at the school of attendance, believes needs this information to work with the student in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability. Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher, counselor, or administrator. An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b) the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole

or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Destroy This Record 12 Months After The Minor Returns To Public School. Unlawful Dissemination of This Information Is A Misdemeanor." No information transmitted by the superintendent pursuant to subdivision (b) shall be transmitted by the superintendent or by any teacher, counselor, or administrator to any other person more than 12 months after receipt of the original notice from the court or more than 12 months after the minor returns to public school, whichever occurs last. Any information received from the court shall be destroyed by school authorities 12 months after its receipt from the court or 12 months after the minor returns to public school, whichever occurs last. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred and shall specify the date by which the record will be destroyed.

(e) Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

SEC. 4. Section 827 of the Welfare and Institutions Code, as amended by Section 4 of Chapter 1103 of the Statutes of 1982, is repealed.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 247

An act to amend Section 66651 of, and to add Chapter 6 (commencing with Section 66670) to Title 7.2 of, the Government Code, relating to public resources.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 66651 of the Government Code is amended to read:

66651. Pursuant to this title the commission has adopted and submitted to the Governor and the Legislature the San Francisco Bay Plan, a comprehensive plan containing statements and maps concerning the following:

(a) The summary and objectives of the plan.

(b) The bay, as a resource, including findings and policies upon: fish and wildlife; water quality; smog and weather; water surface, area, and volume; marshes and mudflats; fresh water inflow; dredging; and shell deposits.

(c) The development of the bay and shoreline, including findings and policies upon: economic and population growth; safety of fills; water-related industries; ports; commercial fishing; airports; recreation; saltponds and other managed wetlands; transportation; other uses of the bay and shoreline; refuse disposal sites; public access; appearance, design, and scenic views.

(d) The implementation provisions in the section on carrying out the plan.

This plan and any amendments thereto shall constitute the plan for the commission to use to establish policies for reviewing and acting on projects until otherwise ordered by the Legislature.

The plan may contain or incorporate by reference special area plans with more specific findings and policies for portions of the bay and its shoreline and other plans addressing special needs, such as seaports.

Any change to the plan shall be made exclusively in accordance with the procedures described in Section 66652 and any regulations the commission may adopt to implement Section 66652.

SEC. 2. Chapter 6 (commencing with Section 66670) is added to Title 7.2 of the Government Code, to read:

CHAPTER 6. WHITE SLOUGH PROTECTION AND DEVELOPMENT

66670. This chapter shall be known and may be cited as the White Slough Protection and Development Act.

66671. The Legislature hereby finds and declares that the area of White Slough, consisting of at least 336 acres of tidal wetlands, 132 acres of tidally influenced wetlands, and 103 acres of adjacent upland, comprises a valuable wetland and urban resource in western Solano County, provides diverse habitat for waterfowl and endangered species, includes degraded areas which can be improved for both wildlife and the public, and is adjacent to developed areas that need adequate transportation and protection from flooding.

66672. The Legislature further finds and declares that the area of White Slough was not within the jurisdiction of the San Francisco Bay Conservation and Development Commission from the time the commission was established in 1965 until the winter of 1976–77, when storms and other natural forces caused levees along the Napa River to breach, allowing greater and more frequent inundation by the tides into much of the area of White Slough. Because neither the owners of the property in the area of White Slough, nor any public agency repaired the levees in a timely manner, subsequently in 1977, most of the area of White Slough became subject to the jurisdiction of the commission and thereby subject to this title.

66673. The Legislature further finds and declares that the breaches in the Napa River levees have caused a major sewerline to be covered by tidal waters, which could lead to serious water pollution in sensitive wildlife habitat areas in the event of leakage or breakage, to problems of infiltration of tidal waters into the sewerline, and to damage of wetlands during the normal maintenance of the sewerline. The breaches also allow the flooding of State Highway Route 37 and nearby developed areas which has already caused damage in excess of one million dollars ($1,000,000) and threatens to cause additional damage in the future.

66674. The Legislature further finds and declares that it is in the public interest to provide flood protection to the residents and property surrounding White Slough, to relocate the flooded sewerlines in White Slough, and to enhance the ecological values of South White Slough, even though those improvements require some fill in tidal and tidally influenced wetlands. The Legislature further finds and declares that the United States Army Corps of Engineers has studied the flooding problems of White Slough and has identified the construction of levees protecting existing filled or developed lands north and south of State Highway Route 37 as an environmentally sound and economically feasible method of providing flood protection, together with a combined improved transportation route and flood control levees along State Highway Route 37.

66675. The Legislature further finds and declares that use of State Highway Route 37 now exceeds the highway's capacity, and that

widening of the highway to four lanes with a minimum amount of fill may only be accomplished in the context of a project to relocate existing sewerlines, to protect private property, and to enhance the ecological values of South White Slough. The Legislature further finds and declares that, because of the unusual circumstances by which tidal influence was returned to White Slough, a combined project may be approved only if all adverse impacts to the environment are mitigated, and the overall effect of the project will be to improve the ecological value of the area.

66676. The Legislature further finds and declares as follows:

(a) The provisions of this chapter are required because of extraordinary circumstances which have developed in the area of White Slough caused by the breaches of the Napa River levee.

(b) Existing public access to the waters of White Slough is inadequate and may be improved along the periphery of South White Slough as part of an ecological enhancement project.

(c) It is in the public interest to devise a resolution of these significant problems that is specific to the area of White Slough.

(d) It is not the intent of the Legislature, in enacting this chapter, to modify any provision of this title except as otherwise expressly provided in this chapter.

66677. The Legislature further finds and declares that, in order to preserve the integrity and to assure the continued wildlife use of White Slough, to provide adequate flood protection, to reduce air pollution, and to complete a necessary transportation facility, there is a need for all of the following:

(a) The establishment and maintenance of adequate waterflow and water quality and the improvement of present water management practices, including drainage and upland flood protection.

(b) The permanent protection by local agencies of tidal wetlands and tidally influenced areas of White Slough, adjacent wetlands, and upland habitat areas.

(c) Implementation of a plan to enhance the wetland values of White Slough, permanently protect wetland, tideland, marsh, and upland habitat areas, provide for an improved transportation link, provide flood protection for already developed upland areas, assure compatible upland development, and provide new public access to and along tidally influenced areas of South White Slough.

(d) Assurance that state interests in the area of White Slough, including water quality, waterflow, habitat protection and enhancement, public access, transportation, and flood protection, will be protected.

66678. As used in this chapter, the following terms have the following meanings:

(a) "City" means the City of Vallejo.

(b) "Commission" means the San Francisco Bay Conservation and Development Commission.

(c) "County" means the County of Solano.

(d) "Department" means the Department of Transportation.

(e) "Plan" means the White Slough Specific Area Plan adopted pursuant to this chapter.

(f) "South White Slough" means all tidally influenced areas south of State Highway Route 37 which would naturally drain northerly to the Napa River, any areas within the tidally influenced portions of the slough that have been filled pursuant to a commission permit, and any areas within the tidally influenced portions of the slough which have been filled after January 1, 1977, without a permit from the commission.

(g) "White Slough" means, within the county and the city, the historic, unfilled bed of White Slough, all lands surrounding the historic bed of White Slough that have been touched by tidal waters since January 1, 1977, any areas within the tidal and tidally influenced portions of the slough that have been filled pursuant to a permit from the commission, and any areas within the tidal and tidally influenced portions of the slough which have been filled after January 1, 1977, without a permit from the commission.

(h) "White Slough Project" means, within the county and the city, the restoration and enhancement of the habitat values of South White Slough, the widening of State Highway Route 37 between Sacramento Street and State Highway Route 29 to not more than four traffic lanes with medians and shoulders of the minimum width possible, the construction of new tidal channels and control structures underneath the existing and the widened portions of State Highway Route 37, the construction of new interchanges between State Highway Route 37 and State Highway 29 and Sacramento Street, the covering with fill of an existing sewerline on the south side of the highway widening, and the relocation of the existing sewerline north of State Highway Route 37 within the area required for the widening of State Highway Route 37.

66679. (a) The city, in consultation with the county, the commission, the department, and other affected local, state, and federal agencies, has previously prepared a draft White Slough Specific Area Plan proposal as a first step toward the orderly, long-range conservation, use, and management of the natural, scenic, recreational, and manmade resources of White Slough.

(b) By June 30, 1991, the city and the county shall jointly adopt a final plan which shall include a specific wetland enhancement segment for the area of White Slough. Provided that no other feasible measures are devised during the environmental review process which have fewer environmental impacts and which accomplish the goals of this chapter, this plan shall include the permanent protection and enhancement of at least 336 acres of tidal wetlands within White Slough and 132 acres of tidally influenced areas in South White Slough, provide for the minimum amount of fill, not to exceed 13 acres, necessary to widen State Highway Route 37 to a four-lane highway and construct interchanges between State Highway Route 37 and State Highway Route 29 and Sacramento Street, provide flood

protection for upland areas, provide for suitable water quality, and provide for wetland enhancement for all tidally influenced areas of South White Slough, including a program for the acquisition, enhancement, and permanent preservation of those areas.

(c) Not later than 30 days after adoption of the final plan by the city and the county, the city and the county shall submit the plan to the commission for review. The commission shall approve or disapprove the plan within 45 days of submittal on the basis of whether the plan meets the objectives of Sections 66677 and 66680 and includes changes to the relevant local city and county general and specific plans and includes proposed city and county ordinances necessary to implement the plan.

(d) Upon approval of the plan by the commission and the adoption by the city and the county of necessary changes to the general and specific plans and implementing ordinances, the plan shall be the primary basis for reviewing applications for state and local permits for projects affecting White Slough. A permit shall be issued only if the permitting entity finds that the proposed project is consistent with the plan and the requirements of this chapter.

(e) After adoption, no changes shall be made in the plan or the implementing ordinances without the prior notification and approval of the commission.

66680. The commission shall review and approve, or disapprove, the plan on the basis of whether the plan provides all of the following:

(a) Permanent protection and enhancement of marshes, tidelands, tidally influenced wetlands, and upland habitat sufficient to assure the long-term usefulness of White Slough as a wildlife habitat, a flood basin consistent with wetland enhancement goals, and a wetland resource for the city and the region, including the establishment, operation, and maintenance of adequate tidal action and water quality to preclude algal blooms, to provide a fishery, and to provide waterfowl feeding, resting, and breeding areas.

(b) Location and siting for a project that consists of a State Highway Route 37 widened to not more than four lanes, with the minimum medians and shoulders necessary to assure highway safety, interchanges between State Highway Route 37 and State Highway Route 29 and Sacramento Street, the covering of the flooded sewerline south of State Highway Route 37 and the relocation of the flooded line north of State Highway Route 37 within the area required for the widening of State Highway Route 37, and that provides for all of the following:

(1) A tidal control structure or structures or open channels, sufficient to assure adequate waterflow for suitable water quality, wetland enhancement of South White Slough, and flood protection, between the wetlands north and south of the State Highway Route 37 corridor.

(2) Adequate height and design to protect developed areas of the city from flooding.

(3) No access from the widened State Highway Route 37 to tidal

wetlands north of the highway.

(4) The minimum wetland fill necessary, but in no event more than 13 acres.

(5) Mitigation measures, specifically including the following:

(A) Prior to the placing of fill or commencement of other highway construction work, acquisition of upland areas in the vicinity of White Slough which do not presently provide unique or especially significant wildlife habitat and which are four times the size of the area to be filled.

(B) The conversion of these lands to wetlands during highway construction.

(C) The hiring of an independent biologist to assess current conditions on the wetlands to be filled and to monitor the conditions of the newly created wetlands over time.

(D) The permanent protection of the created wetlands.

(E) Assurances that the created wetlands will be functioning in a manner which fully replaces the filled wetlands within five years. If, after three years it does not appear that the created wetlands will be fully functioning within the five-year period, then the wetlands shall be further improved in a manner which ensures full replacement of the filled wetlands or which provides additional new wetlands. After the five years, the department shall no longer be required to maintain the created wetlands, but may transfer the created wetlands either to the Department of Fish and Game or to another appropriate resource agency for the wetlands' permanent management for wildlife habitat purposes.

(c) Levees within and adjacent to South White Slough necessary for flood control, wetland habitat enhancement, and public access purposes. The department shall not be responsible for the construction and maintenance of the levees within and adjacent to South White Slough, except for the White Slough Project. Fill for flood control and public access purposes shall be the minimum necessary and shall be mitigated by the acquisition, excavation, and conversion to wetlands of uplands in the vicinity of the project and which do not presently provide unique or especially significant wildlife habitat, to provide an area of wetland habitat at least twice the area to be filled.

(d) Acquisition of interests in real property sufficient to preserve and maintain permanently the wetland, tidal, water-covered, and public access areas of White Slough.

(e) Recognition that the project constructed in accordance with the plan is required to meet the requirements of the federal Clean Water Act and the Rivers and Harbors Act, if applicable.

66681. The plan shall be implemented as follows:

(a) The city and the county shall adopt the relevant provisions of the plan into their general and specific plans, shall adopt land use ordinances that implement the policies of the plan, and shall review and issue or deny any necessary local permits for projects within White Slough based on the requirements of the plan and

implementing ordinances.

(b) In addition to obtaining any other permit required by law from the city or county or any state, regional, or local agency, any person placing fill, extracting materials, or making any substantial change in use of any area within White Slough shall obtain a permit from the commission. The commission shall issue a permit for these activities only if it finds the project consistent with the plan, this chapter, and, where not inconsistent with the plan and this chapter, this title, the San Francisco Bay Plan, and other relevant state and local law.

(c) The Department of Fish and Game, the Wildlife Conservation Board, the State Lands Commission, the State Coastal Conservancy, and the Department of Transportaton shall exercise their powers and allocate available resources to acquire, enhance, or manage wetlands and public access areas within White Slough in a manner consistent with the plan, subject to statewide goals and priorities of the agencies.

66682. The commission shall issue a permit for all, or any portion, of the White Slough Project only if the commission finds that the work is consistent with the plan, subdivision (b) of Section 66681, and all of the following requirements have been met:

(a) The city and the county have adopted the necessary implementing ordinances and have amended their general and specific plans.

(b) The department limits the project to a four-lane highway with the minimum medians and shoulders necessary to assure highway safety, and the project does not permit access to the wetlands north of State Highway Route 37.

(c) A minimum fill of tidal areas will result from construction of the combined flood barrier, new sewerline, and widened State Highway Route 37 and associated interchanges, which in no event will result in the loss of more than 13 acres of tidal areas.

(d) Fill of tidal and tidally influenced wetlands will be mitigated on a four-to-one basis in the vicinity of the project, and the mitigation will consist of the acquisition of upland areas which do not presently provide unique or especially significant wildlife habitat and the creation and permanent protection of new wetlands for habitat purposes. The acquisition of the upland areas will take place before construction of the highway project. Creation of new wetlands will be done concurrently with the construction of the highway project and will be monitored by an independent biologist. There shall be assurances that the created wetlands will be fully functional or additional measures shall be taken as described in paragraph (5) of subdivision (b) of Section 66680.

(e) The project will provide a barrier to protect already developed areas of the city from flooding.

(f) The project will include the covering of the flooded sewerline south of State Highway Route 37 and the relocation of the flooded line north of State Highway Route 37 within the area required for the

widening of State Highway Route 37.

(g) The project will provide improved water circulation and waterflow throughout South White Slough, so as to minimize algal growth and air pollution and to improve wetland habitat values.

(h) The White Slough Project is the least environmentally damaging, feasible alternative identified pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 248

An act to amend Sections 8340 and 8351 of the Streets and Highways Code, relating to easements.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 8340 of the Streets and Highways Code is amended to read:

8340. In a proceeding to vacate a street or highway:

(a) A public entity may reserve and except from the vacation the easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures in, upon, over, and across a street or highway proposed to be vacated and, pursuant to any existing franchise or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew, and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment, and fixtures for the operation of gas pipelines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, and water, and for incidental purposes, including access to protect these works from all hazards in, upon, and over the street or highway proposed to be vacated.

(b) A local agency may reserve and except from vacation an easement for a future street or highway, unless the local agency finds that the street or highway is unnecessary for prospective public use.

(c) If there are in-place public utility facilities that are in use, a

public entity shall, unless the legislative body determines the public convenience and necessity otherwise require, reserve, and except from the vacation any easement and right necessary to maintain, operate, replace, remove, or renew the public utility facilities.

(d) A public entity may reserve and except from the vacation, or may grant to another state or local public agency, an easement and right, at any time or from time to time, to construct, maintain, operate, replace, remove, and renew vehicular or nonvehicular trails for use by the public in, upon, over, and across a street or highway proposed to be vacated.

SEC. 2. Section 8351 of the Streets and Highways Code is amended to read:

8351. Except as otherwise provided in Chapter 5 (commencing with Section 8340) or in this chapter, upon the vacation of a street, highway, or public service easement:

(a) If the public entity owns only an easement for the street, highway, or public service purpose, title to the property previously subject to the easement is thereafter free from the easement for use for street, highway, or public service purposes, but not from any easement for vehicular or nonvehicular trail use that the public entity has previously granted to any other state or local public agency. If the easement is abandoned by resolution of the state or local public agency that was granted an easement for vehicular or nonvehicular trail use, the title to the property previously subject to the vehicular or nonvehicular easement is thereafter clear of the easement.

(b) If the public entity owns the title, the legislative body may dispose of the property as provided in this chapter.

CHAPTER 249

An act to amend Section 707 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a

determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offense alleged to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at the hearing.

(b) Subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses:

(1) Murder.

(2) Arson of an inhabited building.

(3) Robbery while armed with a dangerous or deadly weapon.

(4) Rape with force or violence or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) Any offense specified in Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purpose of robbery.

(11) Kidnapping with bodily harm.

(12) Assault with intent to murder or attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) Any offense described in Section 1203.09 of the Penal Code.

(17) Any offense described in Section 12022.5 of the Penal Code.

(18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) Any violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which would also constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from any county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea

to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at the hearing.

(d) If, subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, the minor is convicted in a court of criminal jurisdiction of an offense listed in subdivision (b) of this section or listed in paragraph (24) of subdivision (c) of Section 1192.7 of the Penal Code, the finding of unfitness which preceded the conviction is applicable to the violation of any law or ordinance defining crime which is alleged to have been committed subsequent to the conviction if the violation would otherwise cause the minor to be a person described in Section 602. The probation officer shall not be required to investigate or submit a report regarding the fitness of a minor for any such subsequent charge. This subdivision shall not be construed to affect the right to appellate review of a finding of unfitness or the duration of the jurisdiction of the juvenile court as specified in Section 607.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 250

An act to amend Sections 14300, 14400, and 15151 of the Financial Code, relating to credit unions.

[Approved by Governor July 13, 1990. Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 14300 of the Financial Code is amended to read:

14300. (a) If the commissioner finds that a credit union has impaired capital, or is insolvent, or is operating in an unsafe or unsound manner, or has failed to comply with Section 14858, the commissioner may, after notice and opportunity for a hearing, take possession of the business and assets of the credit union and maintain possession, as a conservator, until the time that the commissioner permits it to continue business pursuant to subdivision (e), or its affairs are put in order, or it is merged or finally liquidated.

(b) The commissioner is expressly authorized, whenever acting as conservator pursuant to subdivision (a), to do all things necessary and proper to put the credit union's affairs in order, or to effect a merger or a liquidation, whichever is appropriate, including, but not limited to, employing attorneys, accountants, financial experts, agents and employees, and to purchase merchandise, materials, supplies, and services, and to pay for them out of the conservatorship assets at the ordinary and usual rate, and shall do all things to incur risk and obligations ordinarily incurred by managers and operators of credit unions. No such risk or obligation incurred shall be the personal risk or obligation of the commissioner or the department or their agents, servants, or employees, but shall be the risk and obligation of the conservatorship estate.

(c) If any facts occur that would entitle the commissioner under subdivision (a) to take possession of the property, business, and assets of a credit union, the commissioner may appoint a conservator of a credit union and require of him or her a bond that the commissioner deems proper. The conservator, under the direction of the commissioner, shall take action that he or she may deem necessary to conserve the assets of the credit union pending further disposition of its business. The conservator shall retain that possession until the property, business, and assets of the credit union are returned to the credit union or until further order of the commissioner.

(d) A conservator, while in possession of the property, business, and assets of a credit union has the same powers and rights and is subject to the same duties and obligations as the commissioner while acting as conservator; and, during that time the rights of a credit union and of all persons with respect to it are the same as if the commissioner had taken possession of the property, business, and assets. A conservator, while in possession of the property, business, and assets of a credit union, shall have all the rights, powers, and privileges of the credit union, its officers, and directors. All expenses of the conservatorship shall be paid out of the assets of the credit union and shall be a lien.

(e) If the credit union submits a satisfactory plan to restore any impairment of capital, or cure its insolvency, and to proceed with business in a sound, businesslike manner, the commissioner may permit the credit union to resume possession of the business and assets and operate as a credit union under such conditions as may be imposed by the commissioner in the public interest.

SEC. 2. Section 14400 of the Financial Code is amended to read:

14400. (a) The savings capital of a credit union shall consist of the payments made by members on shares as set forth in the credit union's written savings capital structure policy pursuant to Section 14862.

(b) The equity capital of the credit union shall consist of all consideration paid for memberships in the credit union, all entrance fees paid to become a member of a credit union, all moneys held in the credit union's regular reserve account, all dues, fees, and

assessments paid by credit union members, other than fees charged in connection with member share accounts or loans, and held in any contingency reserve account established by the credit union's board of directors or at the direction of the commissioner, and all retained earnings in the credit union's undivided profits account less all losses in excess of the credit union's regular reserve account.

SEC. 3. Section 15151 of the Financial Code is amended to read:

15151. A credit union shall maintain a current written schedule or schedules containing all of the following:

(1) The amount or, if no amount can be stated, the method of determining the amount of each charge which the credit union may impose on an account.

(2) Provisions in the credit union's written capital policy statement relating to the frequency, method that will be used in calculating, and the conditions under which dividends will be paid, including any provision for nonpayment of dividends on deposits made after the beginning of the dividend payment period or withdrawn before the end of such period.

(3) If the rate of dividend may vary, the circumstances under which a variation may occur and the method of determining the new rate.

(4) The effective date thereof.

The schedule or schedules shall be available for inspection by the credit union members or prospective members at each branch office in California at which such accounts are maintained and written materials setting forth the information contained in such schedule shall be displayed and be available to the credit union members or prospective members in an area of the credit union which is open to the credit union members or prospective members. The schedule or schedules and written materials need not contain information relating to an account for an unincorporated association of natural persons.

CHAPTER 251

An act to amend Sections 19532, 19606.5, and 19617.6 of, and to amend, repeal, and add Sections 19533, 19613, and 19641 of, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 19532 of the Business and Professions Code is amended to read:

19532. (a) Any association licensed to conduct thoroughbred

racing in the northern zone may receive no more than 22 weeks of that racing.

(b) Any association licensed to conduct thoroughbred racing in the central zone may receive no more than 17 weeks of that racing, except that any association which conducts a split meeting may receive up to 20 weeks of that racing. No more than one such split meeting may be licensed in any one year.

(c) This section and Section 19531 shall not operate to deprive any association of any weeks of racing granted during 1980.

(d) This section and Section 19531 shall not operate to deprive the California State Fair and Exposition of any weeks of racing granted during the previous calendar year, and the board may continue to allocate those weeks of racing to the California Exposition and State Fair or any lessee thereof.

(e) Nothing in subdivision (d) is a limitation on the board allocating racing weeks to any private racing association as a lessee of the California Exposition and State Fair racetrack facility pursuant to Sections 19531 and 19532.

SEC. 1.2. Section 19533 of the Business and Professions Code is amended to read:

19533. (a) Any license granted to an association other than a fair shall be only for one type of racing, thoroughbred, harness, or quarter horse racing as the case may be, except that the board may, by regulation, authorize the entering of thoroughbred horses in quarter horse races at a distance of 870 yards at quarter horse meetings, mixed breed meetings, and fair meetings.

(b) If the board adopts regulations authorizing the entering of thoroughbred horses in quarter horse races, the regulations shall provide that the association which conducts the meeting shall, as provided in subdivision (b) of Section 19613, pay to the horsemen's organization representing thoroughbred horsemen an amount for administrative expense and services rendered to horsemen equivalent to 1.5 percent of the amount available to thoroughbred horses for purses, and an amount for a pension plan for backstretch personnel to be administered by that horsemen's organization equivalent to an additional 1 percent of the amount available to thoroughbred horses for purses. The remainder of the portion shall be distributed as purses. The regulations shall also provide that any redistributable money paid to the board pursuant to Section 19641 which is paid to a welfare fund established by a horsemen's organization from races with both thoroughbred and quarter horses be divided pro rata between the two welfare funds based on the number of thoroughbreds and quarter horses in the race.

(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. 1.3. Section 19533 is added to the Business and Professions Code, to read:

19533. (a) Any license granted to an association other than a fair

shall be only for one type of racing, thoroughbred, harness, or quarter horse racing as the case may be, except that the board may, by regulation, authorize the entering of thoroughbred horses in quarter horse races at a distance of 870 yards at quarter horse meetings, mixed breed meetings, and fair meetings.

(b) This section shall become operative on January 1, 1993.

SEC. 1.4. Section 19606.5 of the Business and Professions Code, is added by Chapter 131 of the Statutes of 1990, is amended to read:

19606.5. (a) 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 in the central or southern zone, 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.

(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. 2. Section 19613 of the Business and Professions Code is amended to read:

19613. (a) Except as provided in subdivisions (b), (c), (d), (e), and (f), the portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association other than a fair which conducts a thoroughbred racing meeting shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen an amount equivalent to 1.5 percent of the portion, and for a pension plan for backstretch personnel to be administered by the horsemen's organization, an amount equivalent to an additional 1 percent of the portion. The remainder of the portion shall be distributed as purses.

(c) Any other association may pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen an amount out of the portion as may be determined by the association by agreement or otherwise, but, in all events, shall include, relative to a thoroughbred horsemen's organization, 1 percent of the portion for a pension plan for backstretch personnel to be administered by the horsemen's organization. The remainder of the portion shall be distributed as purses.

(d) Notwithstanding subdivisions (b) and (c), any association

conducting a fair racing meeting or conducting a mixed breed racing meeting shall pay to the horsemen's organizations contracting with the association with respect to the conduct of races for their respective breeds of horses at the meetings for administrative expenses and services rendered to their respective horsemen those amounts out of the portion as determined by the horsemen's organization for the respective breeds with the approval of the board. The amount to be distributed as purses or commissions for any race meet under this subdivision shall be based on respective parimutuel pools during the previous corresponding meeting, if any.

Pursuant to this subdivision, amounts equivalent to 3 percent of the portion for the horsemen's organization shall be distributed to any thoroughbred horsemen's organizations contracting with an association for a fair racing meeting or participating in mixed breed racing meetings as follows: 1 percent for administrative expenses and services rendered to their respective horsemen, 1 percent for welfare funds, and 1 percent for a pension program for backstretch personnel, to be administered by the thoroughbred horsemen's organizations.

(e) Any association other than a fair which conducts a quarter horse racing meeting, except a mixed breed meeting, shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen an amount equal to its expenses, but not to exceed 3 percent of the portion. The remainder of the portion shall be distributed as purses.

(f) For racing meetings other than thoroughbred meetings, if no contract has been signed between the association conducting the racing meeting and the organization representing the horsemen by the time the racing meeting commences, the distribution of purses shall be governed by the following:

(1) If the association conducted a racing meeting within the past 15 months and a contract was in existence for that meeting with the horsemen's organization and the association is conducting a subsequent meeting for the same breed or mixed breeds, the amounts payable to the horsemen's organization under subdivision (c) shall be computed under the provisions of the last signed contract between the parties.

(2) This subdivision applies regardless of the cause of the failure to execute a contract, whether that failure is a result of inadvertence or otherwise.

(3) For racing meetings which do not come within paragraph (1), the board shall, within 15 days after the commencement of the racing meeting, determine the amounts payable to the horsemen's organization for administrative expenses and services, and provide for the direct payment of those amounts.

(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. 2.5. Section 19613 is added to the Business and Professions Code, to read:

19613. (a) The portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association conducting a fair racing meeting or conducting a mixed breed racing meeting shall provide for the distribution of purses or commissions for any racing meeting under this subdivision based on the respective parimutuel pools during the previous corresponding meeting, if any.

SEC. 3. Section 19617.6 of the Business and Professions Code is amended to read:

19617.6. (a) The board shall designate the officially recognized organization representing quarter horsemen to administer this section and to distribute any amounts which are made available for distribution under this section. The organization may, with the approval of the board, make a deduction for expenses, which shall not exceed 10 percent of the total amount available for distribution under this section.

(b) A breeders' award equal to 5 percent of the winning horse's share of the purse won by a California-bred quarter horse in any race at any meeting held in the state, other than a mixed breed meeting, shall be paid to the breeder of the winning horse.

(c) The amount remaining for distribution under this section, if any, after the payments are made under subdivision (b) shall be used for the payment of quarter horse stallion awards as provided in this subdivision.

At the end of the calendar year, stallion awards shall be made under this subdivision on a prorated percentage based on the win and second place shares of the purse, exclusive of all purse money not derived from the parimutuel pools, to the owners of sires of quarter horses who have been officially placed first or second in one or more races other than maiden or claiming races at a quarter horse meeting, or in a nonmaiden claiming race at a quarter horse meeting in races having a total purse value equal to, or in excess of, the average purse value for races, other than stakes races, won by California-bred quarter horses during the previous year, or in any quarter horse stakes race run at the California Exposition and State Fair, or at any county or district agricultural association fair or mixed meeting.

Stallion awards shall not be made to the owner of a sire which has been out of the state for breeding purposes during the calendar year.

Stallion awards shall not be made for any race run outside the State of California.

(d) If there are insufficient funds to make all of the distributions in this section, there shall be no assessments made against any association to fund the deficiencies.

SEC. 4. Section 19641 of the Business and Professions Code is amended to read:

19641. (a) Except as provided in subdivision (b), 120 days after the close of any horseracing meeting, any redistributable money in a parimutuel pool subject to payment to a claimant pursuant to Section 19598, but not successfully claimed within that period, shall be paid to the board.

The money received by the board under this subdivision resulting from thoroughbred, harness, or quarter horse meetings, but excluding the meetings of the California Exposition and State Fair or of a county, district agricultural association, or citrus fruit fair, shall be used by the board to support research on matters pertaining to horseracing and racetrack security, but this money is subject to annual budgetary review by the Legislature. All of the redistributable money received by the board from other meetings shall be paid immediately into the State Treasury to the credit of the General Fund.

(b) One hundred twenty days after the close of any horseracing meeting, one-half of the redistributable money resulting from the thoroughbred, harness, or quarter horse meetings, but excluding the meetings of the California Exposition and State Fair or county, district agricultural association, or citrus fruit fair meetings, shall be distributed to a welfare fund established by the horsemen's organization contracting with the association with respect to the conduct of racing meetings 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.

(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. 5. Section 19641 is added to the Business and Professions Code, to read:

19641. (a) One hundred twenty days after the close of any horseracing meeting, any redistributable money in a parimutuel pool subject to payment to a claimant pursuant to Section 19598, but not successfully claimed within that period, shall be paid to the board.

The money received by the board under this subdivision resulting from thoroughbred, harness, or quarter horse meetings, but excluding the meetings of the California Exposition and State Fair or of a county, district agricultural association, or citrus fruit fair, shall be used by the board to support research on matters pertaining to horseracing and racetrack security, but this money is subject to annual budgetary review by the Legislature. All the redistributable money received by the board from other meetings shall be paid immediately into the State Treasury to the credit of the General Fund.

(b) This section shall become operative on January 1, 1993.

SEC. 6. The California Horse Racing Board shall conduct an audit of the financial books and records of horsemen's organizations, with respect to the funds received by those organizations pursuant to Sections 19533, 19606.5, 19613, and 19614 of the Business and

Professions Code. The audit shall be conducted during 1991 and shall cover the period of time since the last audit of those funds.

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 that this act may take effect and apply during the current racing season, it is necessary that this act take effect immediately.

CHAPTER 252

An act to amend Section 2272 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 2272 of the Food and Agricultural Code is amended to read:

2272. The commissioner shall make an annual report to the director on the condition of agriculture in his or her county and on what is being done to eradicate, control, or manage pests, and actions relating to the exclusion of pests or quarantine against pests. The commissioner shall include in the annual report information relating to organic farming methods, biotechnology, integrated pest management, and biological control activities in the county. The commissioner shall also furnish from time to time to the director any other information the director may require.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 253

An act to amend Section 532d of the Penal Code, relating to charitable solicitations.

[Approved by Governor July 13, 1990. Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 532d of the Penal Code is amended to read:

532d. Any person who solicits or attempts to solicit or receives money or property of any kind for a charitable, religious or eleemosynary purpose and who, directly or indirectly, makes, utters, or delivers, either orally or in writing, an unqualified statement of fact concerning the purpose or organization for which the money or property is solicited or received, or concerning the cost and expense of solicitation or the manner in which the money or property or any part thereof is to be used, which statement is in fact false and was made, uttered, or delivered by that person either willfully and with knowledge of its falsity or negligently without due consideration of those facts which by the use of ordinary care he or she should have known, is guilty of a misdemeanor. An offense charged in violation of this section shall be proven by the testimony of one witness and corroborating circumstances. Nothing contained in this section shall be construed to limit the right of any city, county, or city and county to adopt regulations for charitable solicitations which are not in conflict with this section.

CHAPTER 254

An act to amend Section 25350.51 of the Government Code, relating to local government.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 25350.51 of the Government Code is amended to read:

25350.51. The board may, by ordinance or resolution, delegate to the purchasing agent or other appropriate county official, subject to any rules and regulations as it may impose, the following authority:

(a) To lease real property for use by the county for a term not to exceed three years and for a rental not to exceed two thousand five hundred dollars ($2,500) per month.

(b) To amend real property leases for improvements or

alterations, or both, with a total cost not to exceed two thousand five hundred dollars ($2,500) provided that the amendment does not extend the term of the lease and that no more than two amendments, not to exceed two thousand five hundred dollars ($2,500) each, are made within a 12-month period.

Notice of intention to consummate the lease shall be posted in a public place for five working days prior to consummation of the lease.

CHAPTER 255

An act to add Section 754 to the Insurance Code, relating to insurance.

[Approved by Governor July 13, 1990. Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 754 is added to the Insurance Code, to read:

754. (a) It is unlawful for any person to solicit, receive, offer, or pay any referral fee for the referral of an individual for the furnishing of services or goods for which the person knows or should have known whole or partial reimbursement is or may be made, directly or indirectly, by any insurer. As used in this section, a referral fee is a fee paid by a person furnishing goods or services to another in return for the referral of an individual to that person for the furnishing of services or goods. It includes any referral fee, kickback, bribe, or rebate, whether made directly or indirectly, overtly or covertly, or in cash or in kind. This subdivision does not apply to any of the following:

(1) Discounts or similar reductions in prices.

(2) Referral fees between attorneys if legal services are provided pursuant to a contingency fee arrangement if any referral fee is consistent with the Rules of Professional Conduct of the State Bar of California.

(b) This section applies to all forms of insurance covering a motor vehicle, including commercial and personal lines, and comprehensive coverage, property damage coverage, collision coverage, and liability coverage.

(c) A violation of this section is a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) for each violation. Proceedings to enforce this section may be brought by any district attorney or other prosecuting attorney.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 256

An act to add Section 1871.3 to the Insurance Code, relating to insurance.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 1871.3 is added to the Insurance Code, to read:

1871.3. (a) In the case of any claim arising from the theft of an insured vehicle, prior to the settlement of the claim, the insurer shall secure from the insured a claim form which shall contain, among other things, the following:

(1) A warning that false representations made on the signed claim form by the insured subject the insured to a penalty of perjury.

(2) A detailed description of the insured vehicle including the interior, exterior, and any special equipment.

(3) The purchase location of the insured vehicle, the purchase date, and the name of the seller.

(4) A detailed statement of the circumstances surrounding the theft.

(5) The current driver's license number of the insured.

(b) For purposes of complying with the requirements of subdivision (a), the insured shall do either of the following:

(1) Sign the claim form in the presence of the insurance agent, broker, adjuster, or other claims representative, who shall verify the driver's license number of the insured who is signing the claim form.

(2) Submit a claim form with a notarized signature.

(c) The claim form shall be signed under penalty of perjury.

(d) The insurer shall retain the following for at least three years:

(1) All settlement checks in settlement of the theft of an automobile.

(2) The original claim form provided for in subdivision (a).

(3) A legible copy of the police report of the vehicle theft.

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 crime or infraction,

changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 257

An act to amend Section 612 of the Military and Veterans Code, relating to state military service.

[Approved by Governor July 13, 1990. Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 612 of the Military and Veterans Code is amended to read:

612. (a) The colors and standards carried by organizations of the National Guard or Naval Militia shall be those which are carried by similar organizations of the United States Army, Air Force, or Navy, except that the regimental or battalion colors or standards may show the state coat of arms, instead of the coat of arms of the United States.

(b) The Adjutant General may, pursuant to rules and regulations adopted for the purpose, deliver to the members of the family of a deceased member of the National Guard or of the State Military Reserve the colors used during the disposition of the remains of the deceased member according to the custom and usual practice of the United States Army, Air Force, or Navy, which then become the property of the members of the family.

CHAPTER 258

An act to amend Section 652.5 of, and to add Section 654.6 to, the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 652.5 of the Welfare and Institutions Code is amended to read:

652.5. Whenever an officer refers or delivers a minor pursuant to subdivision (b) of Section 626, the agency to which the minor is referred or delivered shall immediately make such investigation as that agency deems necessary to determine what disposition of the

minor that agency shall make and shall initiate a service program for the minor when appropriate.

The service program for any minor referred or delivered to the agency for any act described in Section 602 shall include constructive assignments that will help the minor learn to be responsible for his or her actions. The assignments may include, but not be limited to, requiring the minor to repair damaged property or to make other appropriate restitution, or requiring the minor to participate in an educational or counseling program. The minor or his or her parent or guardian may be required to reimburse the agency for all or part of the cost of the service program if he or she has the financial ability to pay.

If the referral agency does not initiate a service program on behalf of a minor referred to the agency within 20 calendar days, or initiate a service program on behalf of a minor delivered to the agency within 10 days, that agency shall immediately notify the referring officer of that decision in writing. The referral agency shall retain a copy of that written notification for 30 days.

SEC. 2. Section 654.6 is added to the Welfare and Institutions Code, to read:

654.6. A program of supervision pursuant to Section 654 or 654.2 for any minor described in Section 602 shall include constructive assignments that will help the minor learn to be responsible for his or her actions. The assignments may include, but not be limited to, requiring the minor to perform at least 10 hours of community service, requiring the minor to repair damaged property or to make other appropriate restitution, or requiring the minor to participate in an educational or counseling program. The minor or his or her parent or guardian may be required to reimburse the agency for all or part of the cost of the program of supervision if he or she has the financial ability to pay.

CHAPTER 259

An act to add and repeal Section 976.5 of the Penal Code, relating to crimes.

[Approved by Governor July 13, 1990. Filed with Secretary of State July 16, 1990.]

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

SECTION 1. Section 976.5 is added to the Penal Code, to read:

976.5. (a) Notwithstanding any other provision of law, when an accusatory pleading is filed in Sierra County and the defendant is in the custody of Nevada County, he or she may be arraigned before a court in Nevada County.

(b) This section shall not interfere with the right of a defendant

to demur to an accusatory pleading, as specified in Chapter 3 (commencing with Section 1002) of Title 6.

(c) 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.

CHAPTER 260

An act to amend Section 3522 of the Elections Code, relating to initiatives.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990.]

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

SECTION 1. Section 3522 of the Elections Code is amended to read:

3522. The right to file the petition shall be reserved to its proponents, and any section thereof presented for filing by any person or persons other than the proponents of a measure or by persons duly authorized in writing by one or more of the proponents shall be disregarded by the county clerk or registrar of voters.

CHAPTER 261

An act to amend Section 640 of, and to add Section 640.5 to, the Penal Code, relating to crimes.

[Approved by Governor July 13, 1990. Filed with Secretary of State July 16, 1990.]

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

SECTION 1. Section 640 of the Penal Code is amended to read:

640. Any of the following acts committed on or in the facilities or vehicles of a public transportation system as defined by Section 99211 of the Public Utilities Code, on or in the facilities of, or vehicles operated by entities subsidized by, the Department of Transportation, or on or in any leased or rented facilities or vehicles for which any of the above entities incur costs of cleanup, repair, or replacement as a result of any of those acts, is an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during his or her hours of school attendance or employment:

(a) Evasion of the payment of the fares of the system.

(b) Misuse of transfers, passes, tickets, or tokens with the intent to evade the payment of fares.

(c) Playing sound equipment on or in system facilities or vehicles.

(d) Smoking, eating, or drinking in or on system facilities or vehicles in those areas where those activities are prohibited by that system.

(e) Expectorating upon system facilities or vehicles.

(f) Willfully disturbing others on or in system facilities or vehicles by engaging in boisterous or unruly behavior.

SEC. 2. Section 640.5 is added to the Penal Code, to read:

640.5. (a) Any person who writes, sprays, scratches, or otherwise affixes graffiti on or in the facilities or vehicles of a governmental entity, as defined by Section 811.2 of the Government Code, or on or in the facilities or vehicles of a public transportation system as defined by Section 99211 of the Public Utilities Code, or on or in the facilities of or vehicles operated by entities subsidized by, the Department of Transportation, or on or in any leased or rented facilities or vehicles for which any of the above entities incur costs of cleanup, repair, or replacement is guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during his or her hours of school attendance or employment. This subdivision does not preclude application of Section 594.

(b) (1) Upon conviction of any person under subdivision (a), the court may, in addition to any punishment imposed pursuant to subdivision (a), order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person, but shall not order the person to pay for any related costs incurred by the cleanup, repair, or replacement of the property.

(2) If a minor is personally unable to pay any fine levied for violating subdivision (a), the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine by the parent or legal guardian upon a finding of good cause.

(c) Any fine levied for a violation of subdivision (a) shall be credited by the county treasurer pursuant to Section 1463.29 to the governmental entity having jurisdiction over, or responsibility for, the facility or vehicle involved, to be used for removal of the graffiti. Before crediting these fines to the appropriate governmental entity, the county may determine the administrative costs it has incurred pursuant to this section, and retain an amount equal to those costs.

Any community service which is required pursuant to subdivision (a) of a person under the age of 18 years may be performed in the presence, and under the direct supervision, of the person's parent or legal guardian.

(d) As used in this section, graffiti means any form of unauthorized painting, writing, or inscription regardless of the content or nature of the material used in the commission of the act.

SEC. 3. 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 penalty for a crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction.

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.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 262

An act to amend Section 19312 of, and to add Sections 19304, 19305, and 19306 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 13, 1990. Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 19304 is added to the Food and Agricultural Code, to read:

19304. All records required to be retained pursuant to this chapter shall be maintained at the regular place of business of every renderer licensed pursuant to this article and every transporter registered pursuant to Article 6.5 (commencing with Section 19310). Those records shall be exhibited on demand to any peace officer of this state, the director, or any employee of the bureau.

SEC. 2. Section 19305 is added to the Food and Agricultural Code, to read:

19305. Any peace officer of this state, the director, or any employee of the bureau, may, during normal business hours, inspect any premises maintained by a renderer licensed pursuant to this article or a transporter registered pursuant to Article 6.5 (commencing with Section 19310), and any inedible kitchen grease located on the premises, for the purpose of determining whether that renderer or transporter is complying with the record maintenance requirements of this article.

SEC. 3. Section 19306 is added to the Food and Agricultural Code, to read:

19306. (a) Any renderer licensed pursuant to this article or transporter registered pursuant to Article 6.5 (commencing with

Section 19310) who fails in any respect to keep the written records required by this article, or to set out in that written record any matter required by this article to be set out in the record, is guilty of a misdemeanor.

(b) Every renderer or transporter who refuses, upon demand of any peace officer of this state, the director, or any employee of the bureau, to exhibit any written record required by this article, or who destroys that record within one year after making the final entry of any information required by this article, is guilty of a misdemeanor.

(c) Any violation of subdivision (b) is punishable as follows:

(1) For a first offense, by a fine of not less than five hundred dollars ($500), or by imprisonment in the county jail for not more than 30 days, or by both the fine and imprisonment.

(2) For a second offense within a period of one year, by a fine of not less than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than 30 days, or by both the fine and imprisonment. In addition to any other punishment imposed pursuant to this paragraph, the court may order the defendant to stop engaging in the business as a transporter or renderer for a period not to exceed 30 days.

(3) For a third or any subsequent offense within a period of two years, by a fine of not less than two thousand dollars ($2,000), or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court shall order the defendant to stop engaging in the business as a transporter or renderer for a period of 30 days.

SEC. 4. Section 19312 of the Food and Agricultural Code is amended to read:

19312. (a) Registration shall be made with the department and shall include all of the following:

(1) The applicant's name and address.

(2) A description of the operations to be performed by the applicant.

(3) The vehicles to be used in the transportation.

(4) A registration fee of one hundred dollars ($100).

(5) A list of the names of the drivers employed by the transporter who transport inedible kitchen grease subject to this article and their drivers' license numbers.

(6) Any other information that may be required by the department.

(b) Any renderer who is required to register pursuant to this article is not required to pay the fee prescribed in this section.

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.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 263

An act to amend Section 6111 of, and to add Section 6111.5 to, the Probate Code, relating to wills.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 6111 of the Probate Code is amended to read:

6111. (a) A will that does not comply with Section 6110 is valid as a holographic will, whether or not witnessed, if the signature and the material provisions are in the handwriting of the testator.

(b) If a holographic will does not contain a statement as to the date of its execution and:

(1) If the omission results in doubt as to whether its provisions or the inconsistent provisions of another will are controlling, the holographic will is invalid to the extent of the inconsistency unless the time of its execution is established to be after the date of execution of the other will.

(2) If it is established that the testator lacked testamentary capacity at any time during which the will might have been executed, the will is invalid unless it is established that it was executed at a time when the testator had testamentary capacity.

(c) Any statement of testamentary intent contained in a holographic will may be set forth either in the testator's own handwriting or as part of a commercially printed form will.

SEC. 2. Section 6111.5 is added to the Probate Code, to read:

6111.5. Extrinsic evidence is admissible to determine whether a document constitutes a will pursuant to Section 6110 or 6111, or to determine the meaning of a will or a portion of a will if the meaning is unclear.

CHAPTER 264

An act to amend Section 832.8 of the Penal Code, relating to peace officers.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990.]

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

SECTION 1. Section 832.8 of the Penal Code is amended to read:

832.8. As used in Section 832.7, "personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

(a) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.

(b) Medical history.

(c) Election of employee benefits.

(d) Employee advancement, appraisal, or discipline.

(e) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.

(f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

CHAPTER 265

An act to add Section 14052 to the Government Code, relating to transportation.

[Approved by Governor July 13, 1990 Filed with Secretary of State July 16, 1990.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) The Kopp-Katz-Baker Transportation Blueprint for the Twenty-First Century (see Chapters 105 and 106, Statutes 1989) was prepared and enacted before the October 17, 1989, Loma Prieta earthquake.

(b) The damage caused by the earthquake revealed additional deficiencies in the structural integrity of bridges that were not known prior to the earthquake.

(c) Information related to the extent of the deficiencies and the repairs needed to correct them is not known and will not be available during this legislative session.

(d) The Kopp-Katz-Baker Transportation Blueprint for the Twenty-First Century does not provide sufficient funds for seismic safety retrofit work on all deficient bridges.

(e) The Legislature intends to provide the additional funds that will be needed to retrofit or replace all deficient state-owned bridges as quickly as plans and specifications can be prepared and contracts for the work can be awarded.

(f) The Highway System Operation and Protection Plan provided for in Section 14526.5 of the Government Code, including seismic safety retrofit projects, is for the sole purpose of maintaining the structural integrity of the roadway and bridges, and does not result in any measurable benefit to the communities where the facility is located. Therefore, the Legislature intends that projects in the plan, including seismic retrofit projects, shall be undertaken on the basis of cost-effectiveness and need.

SEC. 2. Section 14052 is added to the Government Code, to read:

14052. (a) The department shall prepare an inventory of all state-owned bridges that are required to be strengthened or replaced in order to meet seismic safety standards which are in effect on January 1, 1991. For each bridge listed in the inventory, the department shall determine each of the following:

(1) The earliest date when all necessary engineering work can be completed and construction can be started.

(2) An estimate of the cost of retrofitting or replacing the bridge to conform to the applicable seismic safety standards.

(b) (1) The department shall prepare a multiyear plan and schedule for completing the retrofitting or replacement of all of the bridges identified pursuant to subdivision (a). The schedule shall be based upon the department's estimates of the shortest possible time to perform the work.

(2) The plan shall include the department's estimate of the annual cost and the total cost of carrying out the plan.

(3) The department shall submit the plan and schedule, together with the cost estimates, to the Governor and the Legislature not later than January 1, 1991.

(c) The Legislature intends to appropriate to the department the funds necessary to carry out subdivisions (a) and (b).

CHAPTER 266

An act to amend Section 1463.26 of the Penal Code, relating to vehicles.

[Approved by Governor July 13, 1990. Filed with Secretary of State July 16, 1990]

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

SECTION 1. Section 1463.26 of the Penal Code is amended to read:

1463.26. Notwithstanding Section 1463, out of moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred, once a month, to the traffic fund of the city, an amount equal to one-third of all fines and forfeitures collected during the preceding month upon the conviction of, or upon the forfeiture of bail by, any person charged with a violation of Section 21655.5 or 21655.8 of the Vehicle Code within that city, and an amount equal to one-third of those fines and forfeitures shall be transferred into the general fund of the county, and an amount equal to one-third of those fines and forfeitures shall be transferred to the agency whose approval is required for high-occupancy vehicle lanes on state highways pursuant to Section 21655.6 of the Vehicle Code. If the arrest for a violation of either Section 21655.5 or 21655.8 of the Vehicle Code was not within a city, then 50 percent of the fines and forfeitures shall be transferred to the general fund of the county and 50 percent shall be transferred to the agency having authority to approve high-occupancy vehicle lanes pursuant to Section 21655.6 of the Vehicle Code. Money received by the agency having the authority to approve high-occupancy vehicle lanes pursuant to Section 21655.6 of the Vehicle Code shall be used by that agency for the purposes of improving traffic flow and traffic operations upon the state highway system within the jurisdiction of that agency. In counties where there exists a county transportation commission created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code, that commission is the agency for purposes of this section.

CHAPTER 267

An act to add Section 51266 to the Education Code, relating to schools.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. The Legislature hereby finds and declares that gang problems in the state are increasing and that the solutions to those problems are varied. The Legislature further finds and declares that the most effective gang prevention programs are those that encourage young people to be responsible citizens and to be sensitive to cultural diversity, that provide them with the proper circumstances to deal with choices and their consequences, that provide the skills necessary to resist group pressures to join gangs, and that promote the success, achievement, and excellence of our youth.

SEC. 2. Section 51266 is added to the Education Code, to read:

51266. (a) The Office of Criminal Justice Planning, in collaboration with the State Department of Education, shall develop a model gang violence suppression and substance abuse prevention curriculum for grades 2, 4, and 6. The curriculum for grades 2, 4, and 6 shall be modeled after a similar curriculum that has been developed by the Orange County Office of Education for grades 3, 5, and 7. The Office of Criminal Justice Planning, in collaboration with the State Department of Education, may contract with a county office of education for the development of the model curriculum. The model curriculum shall be made available to school districts and county offices of education on or before July 1, 1991, and shall, at a minimum, provide for each of the following:

(1) Lessons for grades 2, 4, and 6 that are aligned with the state curriculum frameworks for history, social science, and English and language arts.

(2) Instructional resources that address issues of ethnic diversity and at-risk pupils.

(3) The integration of the instructional resources of the Office of Criminal Justice Planning and the School/Law Enforcement Partnership in order to support the school curriculum and assist in the alignment of the state curriculum framework.

(b) The Office of Criminal Justice Planning shall develop an independent evaluation of the pupil outcomes of the model gang violence suppression and substance abuse prevention curriculum program. The Office of Criminal Justice Planning shall submit interim reports to the Legislature on the results of the evaluation on or before December 1, 1992, and on or before December 1, 1994, and shall submit a final report on or before December 1, 1996.

SEC. 3. Section 2 of this act shall be operative only to the extent that funds available to the Office of Criminal Justice Planning are reallocated for this purpose.

CHAPTER 268

An act to amend Section 1103 of the Evidence Code, relating to evidence.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 1103 of the Evidence Code is amended to read:

1103. (a) In a criminal action, evidence of the character or a trait of character (in the form of an opinion or evidence of reputation) of the victim of the crime for which the defendant is being prosecuted is not made inadmissible by Section 1101 if the evidence is:

(1) Offered by the defendant to prove conduct of the victim in conformity with the character or trait of character.

(2) Offered by the prosecution to rebut evidence adduced by the defendant under paragraph (1).

(b) (1) Notwithstanding any other provision of this code to the contrary, and except as provided in this subdivision, in any prosecution under Section 261 or 264.1 of the Penal Code, or under Section 286, 288a, or 289 of the Penal Code, or for assault with intent to commit, attempt to commit, or conspiracy to commit a crime defined in any such section, except where the crime is alleged to have occurred in a local detention facility, as defined in Section 6031.4, or in a state prison, as defined in Section 4504, opinion evidence, reputation evidence, and evidence of specific instances of the complaining witness' sexual conduct, or any of such evidence, is not admissible by the defendant in order to prove consent by the complaining witness.

(2) Paragraph (1) shall not be applicable to evidence of the complaining witness' sexual conduct with the defendant.

(3) If the prosecutor introduces evidence, including testimony of a witness, or the complaining witness as a witness gives testimony, and that evidence or testimony relates to the complaining witness' sexual conduct, the defendant may cross-examine the witness who gives the testimony and offer relevant evidence limited specifically to the rebuttal of the evidence introduced by the prosecutor or given by the complaining witness.

(4) Nothing in this subdivision shall be construed to make inadmissible any evidence offered to attack the credibility of the

complaining witness as provided in Section 782.

(5) As used in this section, "complaining witness" means the alleged victim of the crime charged, the prosecution of which is subject to this subdivision.

CHAPTER 269

An act to amend Section 1127d of the Penal Code, relating to criminal procedure.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 1127d of the Penal Code is amended to read:

1127d. (a) In any criminal prosecution for the crime of rape, or for violation of Section 261.5, or for an attempt to commit, or assault with intent to commit, any such crime, the jury shall not be instructed that it may be inferred that a person who has previously consented to sexual intercourse with persons other than the defendant or with the defendant would be therefore more likely to consent to sexual intercourse again. However, if evidence was received that the victim consented to and did engage in sexual intercourse with the defendant on one or more occasions prior to that charged against the defendant in this case, the jury shall be instructed that this evidence may be considered only as it relates to the question of whether the victim consented to the act of intercourse charged against the defendant in the case, or whether the defendant had a good faith reasonable belief that the victim consented to the act of sexual intercourse. The jury shall be instructed that it shall not consider this evidence for any other purpose.

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

CHAPTER 270

An act to add Section 21662.4 to the Public Utilities Code, relating to airports.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 21662.4 is added to the Public Utilities Code, to read:

21662.4. (a) Emergency aircraft flights for medical purposes by law enforcement, fire fighting, military, or other persons who provide emergency flights for medical purposes are exempt from local ordinances adopted by a city, county, or city and county, whether general law or chartered, that restrict flight departures and arrivals to particular hours of the day or night, that restrict the departure or arrival of aircraft based upon the aircraft's noise level, or that restrict the operation of certain types of aircraft.

(b) As used in this section, "emergency aircraft flights for medical purposes" are those flights in which undue delay would threaten a patient's life. "Emergency aircraft flights for medical purposes" include, but are not limited to, flights for the transportation of all of the following:

(1) Patients accompanied by licensed or certificated medical attendants such as paramedics, nurses, physicians, and respiratory therapists.

(2) Surgical transplant teams for the purpose of procuring human organs for reimplantation in recipients.

(3) Organ procurement agency coordinators responding to a potential donor.

(4) Temporarily viable human organs such as a heart, liver, lungs, kidneys, and pancreas, and human tissue, blood, or blood components.

(5) Human tissue and blood samples for clinical testing to determine compatibility between a donor and a recipient.

(6) Mechanical adjuncts or biological replacements for human organs.

(7) Medical equipment and supplies.

"Emergency aircraft flights for medical purposes" do not include the transportation of medical personnel to attend seminars, conferences, or speaking appearances in which undue delay would not jeopardize any patient's medical condition.

(c) Written information concerning the emergency shall be submitted to the airport proprietor for all emergency aircraft flights within 72 hours prior or subsequent to the departure or arrival of the aircraft. For all emergency aircraft flights for medical purposes, the information shall include the patient's name and address, the names

of medical attendants or personnel and the discipline in which they are licensed or hold a certificate to practice, a signed statement by the attending physician specifying that a medical emergency was involved, the requesting medical facility or agency, the intended destination, the type and registration number of the aircraft, and the names of all flight crew members.

This subdivision does not apply to emergency aircraft flights for medical purposes by law enforcement, fire fighting, or military personnel.

(d) Any airport that incurs additional expenses in order to accommodate the arrival or departure of emergency aircraft flights for medical purposes may charge the patient on whose behalf the flight is made, or any organization or entity which has volunteered to reimburse the airport, for those expenses.

(e) For emergency aircraft flights for medical purposes, when two airports are located in the same geographical area, and one of the airports is a "closed" or restricted airport, the Legislature encourages the use of the "open" or unrestricted airport when feasible, rather than using the "closed" or restricted airport.

(f) When leasing aircraft for flights for emergency medical purposes, the Legislature encourages the use, when feasible, of aircraft which comply with local noise ordinances.

SEC. 2. The Legislature finds and declares that emergency aircraft flights for medical purposes by law enforcement, fire fighting, military, and other persons who provide those flights affect the welfare of all of the citizens of the state, and that facilitating those flights is a matter of statewide concern. It is therefore the intent of the Legislature, by the addition of Section 21662.4 to the Public Utilities Code, to preempt the ordinance of any chartered city insofar as that ordinance may restrict emergency aircraft flights for medical purposes by law enforcement, fire fighting, military, and other persons who provide those flights by restricting flight departures and arrivals to particular hours of the day or night, restricting the departure or arrival of aircraft based upon the aircraft's noise level, or restricting the operation of certain types of aircraft.

CHAPTER 271

An act to amend Section 261.6 of the Penal Code, relating to crime.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 261.6 of the Penal Code is amended to read:

261.6. In prosecutions under Section 261, 286, 288a, or 289, in which consent is at issue, "consent" shall be defined to mean positive

cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

A current or previous dating relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 286, 288a, or 289.

Nothing in this section shall affect the admissibility of evidence or the burden of proof on the issue of consent.

CHAPTER 272

An act to add Section 21080.8 to the Public Resources Code, relating to mobilehomes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 21080.8 is added to the Public Resources Code, to read:

21080.8. This division does not apply to the conversion of an existing rental mobilehome park to a resident initiated subdivision, cooperative, or condominium for mobilehomes if the conversion will not result in an expansion of or change in existing use of the property.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit commencement of conversion procedures for mobilehome parks at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 273

An act to amend Section 150 of the Penal Code, relating to peace officers.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 150 of the Penal Code is amended to read:

150. Every able-bodied person above 18 years of age who neglects or refuses to join the posse comitatus or power of the county, by

neglecting or refusing to aid and assist in taking or arresting any person against whom there may be issued any process, or by neglecting to aid and assist in retaking any person who, after being arrested or confined, may have escaped from arrest or imprisonment, or by neglecting or refusing to aid and assist in preventing any breach of the peace, or the commission of any criminal offense, being thereto lawfully required by any uniformed peace officer, or by any peace officer described in Section 830.1 or in subdivision (a), (b), (d), (e), or (f) of Section 830.2 of the Penal Code who identifies himself or herself with a badge or identification card issued by the officer's employing agency, or by any judge, is punishable by fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000).

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 274

An act to add Section 26470 to the Health and Safety Code, relating to cosmetics.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 26470 is added to the Health and Safety Code, to read:

26470. (a) Any fragrance advertising insert contained in a newspaper, magazine, mailing, or other periodically printed material shall contain only microencapsulated oils. Glue tabs or binders shall be used to prevent premature activation of the fragrance advertising insert.

"Fragrance advertising insert" means a printed piece with encapsulated fragrance applied to it which is activated by opening a flap or removing an overlying ply of paper.

Paperstocks employed in the manufacture of fragrance advertising inserts shall have a maximum porosity of 20 Sheffield units or 172 Gurley-Hill units.

(b) Any person who distributes fragrance advertising inserts in

violation of this section, is guilty of an infraction and shall, if convicted, be subject to a fine of one hundred dollars ($100) for each distribution. The fine shall apply to each mass mailing or distribution, and to each mass publication of a magazine or newspaper in violation of this section. The fine shall not apply, however, to each individual letter, magazine, newspaper, or fragrance advertising insert so distributed. Section 26801 is not applicable to violations of this section.

(c) This section shall become operative on January 1, 1992.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 275

An act to amend Sections 53094 and 53097 of the Government Code, relating to local government.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 53094 of the Government Code is amended to read:

53094. Notwithstanding any other provisions of this article except Section 53097, the governing board of a school district, by vote of two-thirds of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property by such school district except when the proposed use of the property by such school district is for nonclassroom facilities, including, but not limited to, warehouses, administrative buildings, automotive storage and repair buildings. The board shall, within 10 days, notify the city or county concerned of such action. If such governing board has taken such action the city or county may commence an action in the superior court of the county whose zoning ordinance is involved or in which is situated the city whose zoning ordinance is involved, seeking a review of such action of the governing board of the school district to determine whether it was arbitrary and capricious. The city or county shall cause a copy of the complaint to be served on the board. If the court determines that such action was arbitrary and capricious,

it shall declare it to be of no force and effect, and the zoning ordinance in question shall be applicable to the use of the property by such school district.

SEC. 2. Section 53097 of the Government Code is amended to read:

53097. Notwithstanding any other provisions of this article, the governing board of a school district shall comply with any city or county ordinance (1) regulating drainage improvements and conditions, (2) regulating road improvements and conditions, or (3) requiring the review and approval of grading plans as these ordinance provisions relate to the design and construction of onsite improvements which affect drainage, road conditions, or grading, and shall give consideration to the specific requirements and conditions of city or county ordinances relating to the design and construction of offsite improvements. If a school district elects not to comply with the requirements of city or county ordinances relating to the design and construction of offsite improvements, the city or county shall not be liable for any injuries or for any damage to property caused by the failure of the school district to comply with those ordinances.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 276

An act to amend Section 45308 of the Education Code, relating to school employees.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 45308 of the Education Code is amended to read:

45308. Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of

service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. Reemployment shall be in the reverse order of layoff.

For purposes of this section, in school districts with an average daily attendance below 400,000, for service commencing or continuing after July 1, 1971, "length of service" means all hours in paid status, whether during the school year, a holiday, recess, or during any period that a school is in session or closed, but does not include any hours compensated solely on an overtime basis as provided for in Section 45128. Nothing in this section shall preclude the governing board of a school district from entering into an agreement with the exclusive representative of the classified employees which defines "length of service" to mean hire date. For purposes of this section, in school districts with an average daily attendance of 400,000 or more, for service commencing or continuing after January 1, 1986, "length of service" shall be determined by the date of hire.

If a governing board enters into an agreement with the exclusive representative of classified employees that defines "length of service" to mean hire date, the governing board may define "length of service" to mean hire date for a classification of employee not represented by any exclusive bargaining unit.

Nothing contained in this section shall preclude the granting of "length of service" credit for time spent on military leave of absence, or unpaid illness leave, or unpaid maternity leave, or unpaid family care leave, or unpaid industrial accident leave. In the event an employee returns to work following any other unpaid leave of absence, no further seniority shall be accrued for the time not worked.

"Hours in paid status" shall not be interpreted to mean any service performed prior to entering into a probationary or permanent status in the classified service of the district except service in restricted positions as provided in this chapter.

CHAPTER 277

An act to amend Section 7054 of the Health and Safety Code, relating to human remains.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 7054 of the Health and Safety Code is amended to read:

7054. (a) Except as authorized pursuant to the sections referred to in subdivision (b), every person who deposits or disposes of any

human remains in any place, except in a cemetery, is guilty of a misdemeanor.

(b) Cremated remains may be disposed of pursuant to Sections 7117 and 10376.5 or Sections 7054.6 and 10376.5.

(c) Subdivision (a) of this section shall not apply to the reburial of Native American remains under an agreement developed pursuant to subdivision (*l*) of Section 5097.94 of the Public Resources Code, or implementation of a recommendation or agreement made pursuant to Section 5097.98 of the Public Resources Code.

CHAPTER 278

An act to amend Section 3043 of, and to add Sections 3043.1, 3043.2, and 3043.3 to, the Penal Code, relating to crimes.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 3043 of the Penal Code is amended to read:

3043. Upon request, notice of any hearing to review or consider the parole suitability or the setting of a parole date for any prisoner in a state prison shall be sent by the Board of Prison Terms at least 30 days before the hearing to any victim of a crime committed by the prisoner, or to the next of kin of the victim if the victim has died. The requesting party shall keep the board apprised of his or her current mailing address.

The victim, next of kin, or two members of the victim's immediate family have the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his or her views concerning the crime and the person responsible. The board, in deciding whether to release the person on parole, shall consider the statements of victims, next of kin, and immediate family members of the victim made pursuant to this section and shall include in its report a statement of whether the person would pose a threat to public safety if released on parole.

In those cases where there are more than two immediate family members of the victim who wish to attend any hearing covered in this section, the board may, in its discretion, allow attendance of additional immediate family members or limit attendance to the following order of preference: spouse, children, parents, siblings, grandchildren, and grandparents.

The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SEC. 2. Section 3043.1 is added to the Penal Code, to read:

3043.1. Notwithstanding any other provision of law, a victim, his or her next of kin, or any immediate family member of the victim who appears at any hearing to review or consider the parole suitability or the setting of a parole date for any prisoner pursuant to Section 3043 shall be entitled to the attendance of one person of his or her own choosing at the hearing for support. The person so chosen shall not participate in the hearing nor make comments while in attendance.

SEC. 3. Section 3043.2 is added to the Penal Code, to read:

3043.2. (a) In lieu of personal appearance at any hearing to review the parole suitability or the setting of a parole date, the Board of Prison Terms may permit the victim, his or her next of kin, or immediate family members to file with the board a written, audiotaped, or videotaped statement expressing his or her views concerning the crime and the person responsible. The board shall consider any statement filed prior to reaching a decision, and shall include in its report a statement of whether the person would pose a threat to public safety if released on parole.

(b) Whenever an audio or video statement is filed with the board, a written transcript of the tape shall also be provided by the person filing the statement.

(c) Nothing in this section shall be construed to prohibit the prosecutor from representing to the board the views of the victim, his or her immediate family members, or next of kin.

(d) In the event the board permits an audio or video statement to be filed, the board shall not be responsible for providing any equipment or resources needed to assist the victim in preparing the statement.

SEC. 4. Section 3043.3 is added to the Penal Code, to read:

3043.3. As used in Sections 3043, 3043.1, and 3043.2, the term "immediate family" shall include the victim's spouse, parent, grandparent, brother, sister, and children or grandchildren who are related by blood, marriage, or adoption.

CHAPTER 279

An act to amend Section 455.5 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 455.5 of the Public Utilities Code is amended to read:

455.5. (a) In establishing rates for any electrical, gas, heat, or

water corporation, the commission may eliminate consideration of the value of any portion of any electric, gas, heat, or water generation or production facility which, after having been placed in service, remains out of service for nine or more consecutive months, and may disallow any expenses related to that facility. Upon eliminating consideration of any portion of a facility or disallowing any expenses related thereto under this section, the commission shall reduce the rates of the corporation accordingly and shall, for accounting purposes, record the value of that portion of the facility in a deferred debit account and shall treat this amount similar to the treatment of the allowance for funds used during construction. When that portion of the facility is returned to useful service, as provided in subdivision (c), the corporation may apply to the commission for the inclusion of its value and expenses related to its operation for purposes of the establishment of the corporation's rates.

(b) Every electrical, gas, heat, and water corporation shall periodically, as required by the commission, report to the commission on the status of any portion of any electric, gas, heat, or water generation or production facility which is out of service and shall immediately notify the commission when any portion of the facility has been out of service for nine consecutive months.

(c) Within 45 days of receiving the notification specified in subdivision (b), the commission shall institute an investigation to determine whether to reduce the rates of the corporation to reflect the portion of the electric, gas, heat, or water generation or production facility which is out of service. For purposes of this subdivision, out-of-service periods shall not include planned outages of predetermined duration scheduled in advance.

The commission's order shall require that rates associated with that facility are subject to refund from the date the order instituting the investigation was issued. The commission shall consolidate the hearing on the investigation with the next general rate proceeding instituted for the corporation.

(d) Upon being informed by the corporation that any portion of its electric, gas, heat, or water generation or production facility which was eliminated from consideration by the commission in establishing rates for being out of service for nine or more consecutive months pursuant to subdivision (a) or (b), has been restored to service and has achieved at least 100 continuous hours of operation, the commission may again consider that portion of the facility for purposes of establishing rates, and may adjust the corporation's rates accordingly without a hearing, except that a hearing is required on whether to include, for purposes of establishing rates, any additional plant value added.

(e) Nothing in this section prohibits the commission from reviewing the effects of any electric, gas, heat, or water generation or production facility which has been out of service for less than nine consecutive months or planned outages of predetermined duration scheduled in advance.

(f) For purposes of this section, an electric, gas, heat, or water generation or production facility includes only such a facility that the commission determines to be a major facility of the corporation, and does not include any facility determined by the commission to constitute a plant held for future use.

CHAPTER 280

An act to add Section 13826.15 to the Penal Code, relating to gangs.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 13826.15 is added to the Penal Code, to read:

13826.15. (a) The Legislature hereby finds and declares that the implementation of the Gang Violence Suppression Program, as provided in this chapter, has made a positive impact in the battle against crimes committed by gang members in California.

The Legislature further finds and declares that the program, when it was originally created in 1981, provided financial and technical assistance only for district attorneys' offices. Since that time, however, the provisions of the program have been amended by the Legislature to enable additional public entities and community-based organizations to participate in the program. In this respect, the Office of Criminal Justice Planning, pursuant to Section 13826.1, administers funding for the program by awarding grants to worthy applicants. Therefore, it is the intent of the Legislature in enacting this measure to assist the Office of Criminal Justice Planning in setting forth guidelines for this funding.

(b) The Office of Criminal Justice Planning may give priority to applicants for new grant awards, as follows:

(1) First priority may be given to applicants representing unfunded single components, as specified in Sections 13826.2, 13826.4, 13826.5, 13826.6, and 13826.65, in those counties that receive Gang Violence Suppression Program funding for some, but not all, of the program's components. The purpose of establishing this priority is to provide funding for a full complement of the five Gang Violence Suppression Program components in those counties that have less than all five components established.

(2) Second priority may be given to those applicants that propose a multiagency, or multijurisdictional single component project, whereby more than one agency would be funded as a joint project under the single components specified in Sections 13826.2, 13826.4, 13826.5, 13826.6, and 13826.65, and the funding would be provided through a single grant award.

(3) Third priority may be given to applicants that propose

multijurisdictional multicomponent projects, whereby all five Gang Violence Suppression Program components, as specified in Sections 13826.2, 13826.4, 13826.5, 13826.6, and 13826.65, would be funded in a county that does not currently receive Gang Violence Suppression Program funds.

(4) Fourth priority may be given to those single agency single component applicants, in counties wherein the program component is not currently funded.

CHAPTER 281

An act to amend Section 20527.6 of the Water Code, relating to irrigation districts.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 20527.6 of the Water Code is amended to read:

20527.6. (a) Notwithstanding Section 20527, or any other provision of law to the contrary, in the Camp Far West Irrigation District in Placer and Yuba Counties, "elector" and "voter" shall mean a person, corporation, or other entity owning land within the district. At any district election in the Camp Far West Irrigation District, only landowners may vote, and they need not be residents of the district in order to qualify as voters. Each landowner shall have one vote for each dollar's worth of land to which he or she holds title. The last equalized assessment book of the district shall be conclusive evidence of ownership and of the value of the land so owned, except that in the event that an assessment for the district shall not have been made and levied for the year in which the election is held, the last equalized assessment roll of the county in which the land is located shall be used in lieu of the assessment book of the district. Where land is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of the land may designate in writing which one of the owners shall be deemed the owner of the land for purposes of qualifying as a voter. In the absence of that designation each owner shall be entitled to vote his pro rata share of the total value of the land in such multiple ownership.

(b) Every landowner, or the legal representative of a corporation, estate, or trust owning land within the district, may vote at any district election, either in person or by a person duly appointed as his proxy.

(c) As used in this section, "legal representative" means any of the following:

(1) An authorized official of a corporation owning land in the

district.

(2) The trustees of an express trust which owns land in the district.

(3) The executor, administrator, guardian of the estate, or conservator of the estate of a holder of title to land in the district who is appointed under the laws of this state, is entitled to possession of the land, and who is authorized by the appointing court to vote in the election.

(d) Before a legal representative votes at a district election, he or she shall present to the precinct board a certified copy of his or her authority, which shall be kept and filed with the returns of the election. No appointment of a proxy shall be valid, accepted, or vote allowed thereon at any district election unless it meets all the following requirements:

(1) It is in writing.

(2) It is executed by the person or legal representative of the person who is entitled to the votes for which the proxy is given.

(3) It is acknowledged.

(4) It specifies the election at which it is to be used. An appointment of a proxy shall be used only at the election specified.

(e) Every appointment of a proxy is revocable at the pleasure of the person executing it at any time before the person appointed as proxy shall have cast a ballot representing the votes for which the appointment was given.

(f) Notwithstanding Section 21100 or any other provision of law, any voter, as defined in this section, is eligible to be a member of the Board of Directors of the Camp Far West Irrigation District, provided that the voter shall be a freeholder within the division that the voter represents, during the entire term.

SEC. 2. The provisions of this act are necessary because a substantial portion of the land in the Camp Far West Irrigation District is owned by persons not resident within the district and the owners, and not the resident nonowners, are primarily concerned with the affairs and support of the district. This problem is not common to all districts formed under the Irrigation District Law. It is therefore hereby declared that a general law cannot be made applicable and that the enactment of this section as a special law is necessary for the solution of problems existing in the Camp Far West Irrigation District.

CHAPTER 282

An act to amend Section 2557 of the Streets and Highways Code, relating to highways.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 2557 of the Streets and Highways Code is amended to read:

2557. (a) Except as provided by subdivision (c), the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used for the implementation, maintenance, and operation of a motorist aid system of call boxes, including the lease or lease-purchase of facilities and equipment for the system, on the portions of the California Freeway and Expressway System and a county expressway system, and on state highway routes that connect segments of these systems, which are located within the county in which the authority is established and over which the Department of the California Highway Patrol or an agency designated by that department has law enforcement responsibility. The Department of Transportation and the Department of the California Highway Patrol shall each review and approve plans for implementation of a motorist aid system proposed for any state highway route and shall be reimbursed by the service authority for all costs incurred.

(b) An authority or any other public entity may construct and maintain, and lease or lease-purchase on terms and conditions it deems appropriate, the facilities of a motorist aid system or it may contract with a private person or entity to do so.

(c) If leases or lease-purchase agreements are entered into pursuant to subdivision (a), or if revenue bonds are issued and sold pursuant to Section 2558, the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used to the extent necessary to make lease payments or to pay the principal of, and interest on, the amount of bonded indebtedness outstanding, as the case may be. Facilities and equipment acquired through the expenditure of proceeds from the sale of those bonds shall have a useful life at least equal to the term of the bonds.

CHAPTER 283

An act to amend Section 25364 of the Public Utilities Code, relating to transit districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 25364 of the Public Utilities Code is amended to read:

25364. If the district maintains its own retirement fund, the retirement board shall have exclusive control of the administration, investment, and disbursement of the retirement fund. The retirement fund is a trust fund held for the exclusive purposes of providing benefits to members of the retirement system and their survivors and beneficiaries. Investment of the fund is subject to the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

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 conform, at the earliest possible time, statutory standards for the investment of retirement funds by the Alameda-Contra Costa Transit District to the "prudent investor" standards embodied in Proposition 21, which was approved by the voters in 1984, it is necessary that this act take effect immediately.

CHAPTER 284

An act to amend Section 19849.13 of the Government Code, relating to state employees.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 19849.13 of the Government Code is amended to read:

19849.13. Notwithstanding Sections 19839, 19858.1, 19858.3, 19858.4, 19859, and 19859.3, the Department of Personnel Administration may provide for vacation, sick leave, annual leave,

and bereavement leave benefits, including the lump-sum payment of any amount of accumulated leave, with respect to each state officer and employee who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

CHAPTER 285

An act to add Section 132 to the Business and Professions Code, relating to consumer affairs.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 132 is added to the Business and Professions Code, to read:

132. No board, commission, examining committee, or any other agency within the department may institute or join any legal action against any other agency within the state or federal government without the permission of the director.

Prior to instituting or joining in a legal action against an agency of the state or federal government, a board, commission, examining committee, or any other agency within the department shall present a written request to the director to do so.

Within 30 days of receipt of the request, the director shall communicate his or her approval or denial of the request and his or her reasons for approval or denial to the requesting agency in writing. If the director does not act within 30 days, the request shall be deemed approved.

A requesting agency within the department may override the director's denial of its request to institute or join a legal action against a state or federal agency by a two-thirds vote of the members of the board, commission, examining committee, or other agency, which vote shall include the vote of at least one public member of that board, commission, examining committee, or other agency.

CHAPTER 286

An act to amend Section 23160 of the Vehicle Code, relating to driving offenses.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 23160 of the Vehicle Code is amended to read:

23160. (a) If any person is convicted of a first violation of Section 23152, that person shall be punished by imprisonment in the county jail for not less than 96 hours, at least 48 hours of which shall be continuous, nor more than six months and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000).

(b) The court shall order that any person punished under subdivision (a), who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court. If the court determines that 48 hours of continuous imprisonment would interfere with the person's work schedule, the court shall allow the person to serve the imprisonment whenever the person is normally scheduled for time off from work. The court may make this determination based upon a representation from the defendant's attorney or upon an affidavit or testimony from the defendant.

(c) Except as provided in Section 23161, the court shall order the Department of Motor Vehicles to suspend the privilege to operate a motor vehicle of a person punished under this section for six months pursuant to paragraph (1) of subdivision (a) of Section 13352.

CHAPTER 287

An act to amend Section 2924j of, and to add Section 2924k to, the Civil Code, relating to mortgages and deeds of trust.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 2924j of the Civil Code is amended to read:

2924j. (a) Unless an interpleader action has been filed, within 30 days of the execution of the trustee's deed resulting from a sale in which there are proceeds remaining after payment of the amounts required by paragraphs (1) and (2) of subdivision (a) of Section

2924k, the trustee shall send written notice to all persons with recorded interests in the real property as of the date immediately prior to the trustee's sale who would be entitled to notice pursuant to subdivisions (b) and (c) of Section 2924b. The notice shall be sent by first-class mail in the manner provided in paragraph (1) of subdivision (c) of Section 2924b and inform each entitled person of each of the following:

(1) That there has been a trustee's sale of the described real property.

(2) That the noticed person may have a claim to all or a portion of the sale proceeds remaining after payment of the amounts required by paragraphs (1) and (2) of subdivision (a) of Section 2924k.

(3) The noticed person may contact the trustee at the address provided in the notice to pursue any potential claim.

(4) That before the trustee can act, the noticed person shall submit a written claim to the trustee, executed under penalty of perjury, stating the following:

(A) The amount of the claim to the date of trustee's sale.

(B) An itemized statement of the principle, interest, and other charges.

(C) That claims must be received by the trustee at the address stated in the notice no later than 30 days after the date the trustee sends notice to the potential claimant.

(b) The trustee shall exercise due diligence to determine the priority of the written claims received by the trustee to the trustee's sale surplus proceeds from those persons to whom notice was sent pursuant to subdivision (a).

(c) If, after due diligence, the trustee is unable to determine the priority of the written claims received by the trustee to the trustee's sale surplus of multiple persons or if the trustee determines there is a conflict between potential claimants, the trustee may file a declaration of the unresolved claims and deposit with the clerk of the superior or municipal court, as applicable, of the county in which the sale occurred, that portion of the sales proceeds that cannot be distributed. The declaration shall specify the date of the trustee's sale, a description of the property, the names and addresses of all persons sent notice pursuant to subdivision (a), a statement that the trustee exercised due diligence pursuant to subdivision (b), that the trustee provided written notice as required by subdivisions (a) and (d) and the amount of the sales proceeds deposited by the trustee with the superior or municipal court. Further, the trustee shall submit a copy of the trustee's sales guarantee and any information relevant to the identity, location, and priority of the potential claimants with the superior or municipal court and shall file proof of service of the notice required by subdivision (d) on all persons described in subdivision (a).

The clerk shall deposit the amount with the county treasurer subject to order of the superior or municipal court upon the

application of any interested party. The clerk may charge a reasonable fee for the performance of activities pursuant to this subdivision equal to the fee for filing an interpleader action pursuant to Article 2 (commencing with Section 26820) of Division 2 of Title 3 of the Government Code. Upon deposit of that portion of the sale proceeds that cannot be distributed by due diligence, the trustee shall be discharged of further responsibility for the disbursement of sale proceeds. A deposit with the clerk of the superior or municipal court pursuant to this subdivision may be either for the total proceeds of the trustee's sale, if a conflict or conflicts exist with respect to the total proceeds, or that portion that cannot be distributed after due diligence.

(d) Before the trustee deposits the funds with the clerk of the court pursuant to subdivision (c), the trustee shall send written notice by first-class mail, postage prepaid, to all persons described in subdivision (a) informing them that the trustee intends to deposit the funds with the clerk of the superior or municipal court, as applicable, and that a claim for the funds must be filed with the court within 30 days from the date of the notice, providing the address of the court in which the funds were deposited, and a phone number for obtaining further information.

Within 90 days after deposit with the clerk, the court shall consider all claims filed at least 15 days before the date on which the hearing is scheduled by the court, the clerk shall serve written notice of the hearing by first-class mail on all claimants identified in the trustees' declaration at the addresses specified therein. The court shall distribute the deposited funds to any and all claimants entitled thereto.

(e) Nothing in this section restricts the ability of a trustee to file an interpleader action in order to resolve a dispute about the proceeds of a trustee's sale. Once an interpleader action has been filed, thereafter the provisions of this section shall not apply.

(f) "Due diligence," for the purposes of this section means that the trustee researched the written claims submitted or other evidence of conflicts and determined that a conflict of priorities exists between two or more claimants which the trustee is unable to resolve.

SEC. 2. Section 2924k is added to the Civil Code, to read:

2924k. (a) The trustee, or the clerk of the court upon order to the clerk pursuant to subdivision (d) of Section 2924j, shall distribute the proceeds, or a portion of the proceeds, as the case may be, of the trustee's sale conducted pursuant to Section 2924h in the following order of priority:

(1) To the costs and expenses of exercising the power of sale and of sale, including the payment of the trustee's fees and attorney's fees permitted pursuant to subdivision (b) of Section 2924d and subdivision (b) of this section.

(2) To the payment of the obligations secured by the deed of trust or mortgage which is the subject of the trustee's sale.

(3) To satisfy the outstanding balance of obligations secured by any junior liens or encumbrances in the order of their priority.

(4) To the trustor or the trustor's successor in interest. In the event the property is sold or transferred to another, to the vested owner of record at the time of the trustee's sale.

(b) A trustee may charge costs and expenses incurred for such items as mailing and a reasonable fee for services rendered in connection with the distribution of the proceeds from a trustee's sale, including, but not limited to, the investigation of priority and validity of claims and the disbursement of funds. If the fee charged for services rendered pursuant to this subdivision does not exceed one hundred dollars ($100), the fee is conclusively presumed to be reasonable.

CHAPTER 288

An act to amend Sections 12601, 12604, and 12672 of the Food and Agricultural Code, relating to pesticides.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 12601 of the Food and Agricultural Code is amended to read:

12601. The director may seize and hold any lot of produce, or any unharvested produce that is within one week of being in a harvestable condition, which carries or is suspected of carrying pesticide residue or other added deleterious ingredients in violation of this chapter or any regulation adopted pursuant to this chapter.

SEC. 2. Section 12604 of the Food and Agricultural Code is amended to read:

12604. Any produce which is seized and held pursuant to this article, unless previously analyzed by the director, shall be sampled and analyzed within 24 hours after the seizure for the purpose of determining the amount of pesticide residue on it. The owner or bailee of the produce shall be immediately notified in person or by telegram by the director that the analysis of the sample shows that the produce does or does not carry pesticide residue or other added deleterious ingredient in violation of this chapter or any regulation adopted pursuant to this chapter.

SEC. 3. Section 12672 of the Food and Agricultural Code is amended to read:

12672. The director or commissioner may prohibit the harvest of any produce or may seize and hold any lot of produce when a preharvest interval specified in the registered labeling of a pesticide applied to the produce has not been complied with. Except as

provided in Section 12673, this harvest prohibition shall not extend beyond the expiration of the preharvest interval. Lots of produce so seized shall be held until the preharvest interval has expired and the director has determined that any pesticide residue is within a permissible tolerance.

CHAPTER 289

An act to amend Section 959.1 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 959.1 of the Penal Code is amended to read:

959.1. (a) Notwithstanding Sections 740, 806, 949, and 959 or any other provision of the law to the contrary, a criminal prosecution may be commenced by filing an accusatory pleading in electronic form with the magistrate or in a court having authority to receive it.

(b) As used in this section, accusatory pleadings include, but are not limited to, the complaint, the information, the indictment, and any citation or notice to appear issued on a form approved by the Judicial Council.

(c) A magistrate or court is authorized to receive and file an accusatory pleading in electronic form if all of the following conditions are met:

(1) The accusatory pleading is issued in the name of, and transmitted by, a public prosecutor or law enforcement agency filing pursuant to Chapter 5c (commencing with Section 853.5) or Chapter 5d (commencing with Section 853.9), or by a clerk of the court with respect to complaints issued for the offenses of failure to appear, pay a fine, or comply with an order of the court.

(2) The magistrate or court has the facility to electronically store the accusatory pleading for the statutory period of record retention.

(3) The magistrate or court has the ability to reproduce the accusatory pleading in physical form upon demand and payment of any costs involved.

An accusatory pleading shall be deemed to have been filed when it has been received by the magistrate or court.

When transmitted in electronic form, the accusatory pleading shall be exempt from any requirement that it be subscribed by a natural person. It is sufficient to satisfy any requirement that an accusatory pleading, or any part of it, be sworn to before an officer entitled to administer oaths, if the pleading, or any part of it, was in fact sworn to and the electronic form indicates which parts of the pleading were sworn to and the name of the officer who administered the oath.

(4) Notwithstanding any other provision of law, a notice of parking violation or a notice to appear may be received and filed by court in electronic form, if the following conditions are met:

(A) The notice of parking violation is issued and transmitted by a law enforcement agency prosecuting pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(B) The court has the facility to electronically store the data elements of the notice of parking violation for the statutory period of record retention and to produce those data elements in printed form upon demand and payment of any costs involved.

(C) The issuing agency has the ability to reproduce the notice of parking violation in physical form upon demand and payment of any costs involved, as provided in Section 40206.5 of the Vehicle Code.

CHAPTER 290

An act to add Section 19445 to the Business and Professions Code, relating to horseracing.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 19445 is added to the Business and Professions Code, to read:

19445. Notwithstanding any other provision of law, a veterinarian shall not administer medications to any horse entered in the same race in which a horse is entered which he or she owns or trains.

In addition to any penalty provided for by this chapter or any other law, a violation of this section by any licensed veterinarian shall be grounds for denial, revocation, or suspension of a license or imposition of a fine pursuant to Section 4883 and the veterinarian shall be subject to disciplinary action pursuant to Article 4 (commencing with Section 4875) of Chapter 11 of Division 2.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 291

An act to amend Section 8.6 of the Mendocino County Water Agency Act (Chapter 995 of the Statutes of 1949), relating to the Mendocino County Water Agency.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 8.6 of the Mendocino County Water Agency Act (Chapter 995 of the Statutes of 1949) is amended to read:

Sec. 8.6. After a zone has been formed, the board of directors may, by resolution, order the creation of a zone council within the zone. The resolution shall set forth the number of members of the council and their term of office. The zone council for a zone which consists entirely of the territory of an incorporated city may be comprised of the city council of the incorporated city. The members of all other zone councils shall be eligible voters of the zone in which the council is established and shall be either elected to the council by the eligible voters of the zone or appointed to the council by the board. The resolution establishing an elected zone council shall set forth the procedure for conducting the election.

(b) Members of the zone council shall take office immediately upon certification of their election or appointment, filing of the official oath, and execution of a bond, if any, in an amount set by the board of directors. At its first meeting, the zone council shall elect from its members a chairperson and a vice chairperson and shall fix their terms of office. A majority of the zone council shall constitute a quorum for the transaction of business. The vote of a majority of the zone council members present at any meeting attended by a quorum shall be necessary to take action, unless otherwise specified in this act. Meetings of the zone council shall be conducted in accordance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). The zone council shall, by resolution, set the time and place for holding regular meetings. Zone councils shall receive compensation, if any, in an amount set by the board of directors.

(c) The purpose of a zone council is to assist the board of directors in the planning, acquisition, construction, operation, maintenance, and administration of projects within the zone in which it is established, and to coordinate the activity of the agency within the zone with the activities of other public entities within the zone. The board of directors shall determine the specific responsibilities and powers of a zone council and may delegate to the zone council any of the authority of the board with respect to the planning, acquisition, construction, operation, maintenance, or administration

of a project within the zone, except that a zone council appointed by the board may serve in an advisory capacity only and may not be delegated any authority of the board.

(d) In the case of projects for the benefit of two or more zones, the board of directors may establish a participating zone council for the project, selected by either (1) the appointment by each zone council of an equal number of representatives selected from its membership, with one additional member of the participating zone council to be appointed by the board of directors or mutually selected by the two affected zone councils, or (2) any other method mutually agreed upon by the two affected zone councils.

(e) A zone council or a participating zone council shall be dissolved upon four-fifths of all members of the board of directors or upon a majority vote of all of the members of the board of directors and a majority vote of all of the members of the zone council.

CHAPTER 292

An act to amend Section 258 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 258 of the Welfare and Institutions Code is amended to read:

258. (a) Upon a hearing conducted in accordance with Section 257, upon an admission by the minor of the commission of a violation charged, or upon a finding that the minor did in fact commit the violation, the judge, referee, or traffic hearing officer may do any of the following:

(1) Reprimand the minor and take no further action.

(2) Request the probation officer to commence a proceeding as provided in Article 16 (commencing with Section 650).

(3) Make any or all of the following orders:

(A) That the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges, that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

(B) That the minor attend traffic school over a period not to exceed 60 days.

(C) That the minor pay to the general fund of the county for each offense a sum, as specified in Article 1 (commencing with Section

42000) of Chapter 1 of Division 18 of the Vehicle Code, excluding Section 42000, but not to exceed two hundred fifty dollars ($250), and to the Assessment Fund an assessment in the amount provided in Section 1464 of the Penal Code. Any judge, referee, or traffic hearing officer may waive an assessment if the amount the minor is ordered to pay to the general fund of the county is less than ten dollars ($10). A fine imposed on a minor pursuant to this section shall not exceed the maximum fine that could be imposed on an adult for the same offense.

(D) That the probation officer undertake a program of supervision of the minor for a period not to exceed six months.

(E) That the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to Section 40150 of the Vehicle Code.

(F) That the minor perform community service work in a public entity or any private nonprofit entity, for not more than 50 hours over a period of 60 days, during times other than his or her hours of school attendance or employment. Work performed pursuant to this subparagraph shall not exceed 30 hours during any 30-day period. The time frames established by this subparagraph shall not be modified except in unusual cases where the interests of justice would best be served. When the order to work is made by a referee or a traffic hearing officer, it shall be approved by a judge of the juvenile court.

For the purposes of this subparagraph, a judge, referee, or traffic hearing officer shall not, without the consent of the minor, order the minor to perform work with a private nonprofit entity that is affiliated with any religion.

(b) The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

CHAPTER 293

An act to amend Sections 11656.5 and 11656.6 of the Insurance Code, relating to insurance.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 11656.5 of the Insurance Code is amended to read:

11656.5. In order to permit employees of small farms to be brought under the provisions of the Workers' Compensation Law, employers of agricultural labor who are members of any nonprofit agricultural association or who are members of, or stockholders in,

any nonprofit cooperative agricultural marketing association of producers, some or all of whom may not be required to carry compensation insurance, may, under such conditions as the commissioner may prescribe in order to effectuate the purpose of Article 2, Chapter 3, of this part, be insured under a group compensation insurance policy.

SEC. 2. Section 11656.6 of the Insurance Code is amended to read:

11656.6. An insurer may issue a workers' compensation policy insuring an organization or association of employers as a group if such organization or association complies with the following conditions:

(a) Files with the commissioner or a licensed workers' compensation rating organization designated by him:

(1) A copy of its articles of incorporation and bylaws or its agreement of association and rules and regulations governing the conduct of its business, all certified by the custodian of the originals thereof;

(2) A statement setting forth its reasons for desiring insurance as a group;

(3) A statement certifying that at least 75 percent of its regular membership is engaged in a common trade or business, and an agreement that such percentage of membership will be maintained during such time as a group workers' compensation policy issued to such organization or association is in force;

(4) An agreement that only those members who are engaged in a common trade or business shall be named by the organization or association in any statement to the commissioner, a licensed workers' compensation rating organization or insurer as eligible for insurance as a member of the group, and an agreement that it will immediately notify its insurer if any member of such organization fails to remain a member in good standing in accordance with the basic law, rules, and regulations of such organization or association;

(5) A statement in writing undertaking to establish and maintain a safety committee which, by education and otherwise, will seek to reduce the incidence and severity of accidents; and

(6) An agreement in writing duly executed stating that, if the insurer notifies the organization or association of the nonpayment of a premium by an insured member of the organization or association within 60 days after the premium was due, the organization or association may be liable to pay to the insurer the amount of any past due premium which does not exceed the amount of the dividends that are due to the organization or association or its members from the insurer.

However, no such agreement shall be required, nor shall an organization or association be liable for payment, unless the governing board of the organization or association and the insurer agree in writing to use dividends due for the payment of past due premiums. The organization or association shall promptly notify the insurer of the known insolvency of any member of the group plan,

and shall request, upon learning of such insolvency, removal of the member from the group plan. A copy of the resolution of the governing board of the organization or association authorizing the execution of the agreement shall be filed with the commissioner or a licensed workers' compensation rating organization designated by the commissioner and with any insurer issuing a group policy.

(b) "Common trade or business," as used in this article, shall mean:

(1) In agricultural enterprises, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to farms; nurserymen; cultivating or gardening of flowers; and classifications embracing such other operations as may be conducted by a nonprofit cooperative association composed of producer members and combinations of nonprofit cooperative agricultural marketing associations having a central organization composed of member associations.

(2) In the building and construction industry, operations in the construction or repair of commercial or residential buildings or in general engineering construction in which the principal payroll develops under any combination of the classifications applicable to such construction or repair as they appear in the Manual of Rules, Classifications and Basic Rates for Workers' Compensation Insurance approved by the Insurance Commissioner. Commercial buildings, as defined in this paragraph, shall mean any nonresidential buildings.

(3) In the transportation and warehousing industry, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to for-hire motor carriers subject to regulation by the Public Utilities Commission and warehousemen.

(4) In the timber and lumber industry, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classification and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to land clearing; logging or lumbering; log, chip, and lumber hauling; planing or molding mills; sawmills or shingle mills; veneer or veneer products manufacturing; box or box shook manufacturing; cabinet works; door, door frame, or sash manufacturing and wood fiber preparation. However, no classification applicable to for-hire motor carriers under the provisions of paragraph (3) of this subdivision shall be included in any combination of classifications authorized by this paragraph.

(5) For public agencies providing industrial, domestic, or agricultural water service, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classification and Basic Rates

of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to irrigation, drainage, reclamation, or waterworks operations.

(6) For sheltered workshops and rehabilitation facilities licensed pursuant to Section 1191.5 of the Labor Code, operations in which the principal payroll of the employer develops under any combination of classifications of the Manual of Rules, Classification and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner.

(7) For all other enterprises, operations in which the principal payroll develops under a single manual classification or a combination of classifications under which a group policy may be issued pursuant to subdivision (d).

(c) Except as provided in subdivision (d), "principal payroll," for the purpose of this section, means not less than 51 percent of the total payroll for the preceding policy year or, in the case of an employer who has no preceding full year's payroll, not less than 51 percent of his or her estimated annual payroll. Principal or estimated annual payroll shall not include the payroll of those employees set forth in the standard exceptions contained in the California Workers' Compensation Insurance Manual of Rules, Classifications; and Basic Rates.

(d) An insurer may issue a workers' compensation policy insuring an organization or association of employers as a group if in addition to complying with the conditions set forth in subdivision (a), the organization or association has had at least 50 percent of its present membership for at least one year prior to the issuance of the policy, and not less than 75 percent of the payroll of each employer to be insured under the group policy developed under the same two manual classifications, or either of them, for the preceding policy year or, in the case of an employer who has had no preceding full-year's payroll, not less than 75 percent of his estimated annual payroll develops under such classification or classifications. However, no classification applicable to for-hire motor carriers under the provisions of paragraph (3) of subdivision (b) shall be included in any combination of classifications authorized by this subdivision.

CHAPTER 294

An act to amend Section 25252 of, and to add Article 2.5 (commencing with Section 29840) to Chapter 5 of Division 3 of Title 3 of the Government Code, relating to local government.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 25252 of the Government Code is amended to read:

25252. The board of supervisors shall establish or abolish, those funds as are necessary for the proper transaction of the business of the county, and may transfer money from one fund to another, as the public interest requires. The board may by resolution authorize the county auditor to perform one or more of these functions. The board of supervisors may, by resolution, authorize the auditor to transfer money from one fund to another if the board of supervisors has authority over each fund. Wherever reference is made elsewhere in the law to a county salary fund such reference may, upon order of the board of supervisors, after July 1, 1947, be deemed to refer to the county general fund.

SEC. 2. Article 2.5 (commencing with Section 29840) is added to Chapter 5 of Division 3 of Title 3 of the Government Code, to read:

Article 2.5. Optional Method—Registering Claims or Orders

29840. In lieu of the method provided in Article 2 (commencing with Section 29820) for the registration of county warrants, the provisions of this article may be followed for other than school warrants upon adoption by resolution by the county board of supervisors of any county.

29841. When any approved claim or order against funds in the county treasury is presented to the county auditor, and the claim or order constitutes a valid claim against a specific fund, and moneys are not available in the fund from which to pay the claim or order, he or she shall endorse on the claim or order the words "Not approved for want of funds" and shall register the claim or order in the records of his or her office.

29842. The county auditor shall number and date the registered claim or order and shall transmit a notice to the payee that the claim or order has been registered for want of funds and shall bear interest at the rate of 5 percent per annum until paid.

29843. Warrants shall be issued by the county auditor in payment of registered claims or orders from the first moneys thereafter becoming available in the fund and before any other claims or orders are paid from the fund.

29844. Whenever moneys become available in the fund for payment of the registered claim or order, the county auditor shall enter on each the amount of interest due and the total amount including principal and interest and shall issue his or her warrant therefore for such claims or orders according to the sequence of registration.

CHAPTER 295

An act to amend Section 730 of the Evidence Code, relating to evidence.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 730 of the Evidence Code is amended to read:

730. When it appears to the court, at any time before or during the trial of an action, that expert evidence is or may be required by the court or by any party to the action, the court on its own motion or on motion of any party may appoint one or more experts to investigate, to render a report as may be ordered by the court, and to testify as an expert at the trial of the action relative to the fact or matter as to which the expert evidence is or may be required. The court may fix the compensation for these services, if any, rendered by any person appointed under this section, in addition to any service as a witness, at the amount as seems reasonable to the court.

Nothing in this section shall be construed to permit a person to perform any act for which a license is required unless the person holds the appropriate license to lawfully perform that act.

CHAPTER 296

An act to amend Sections 11805 and 11964 of, and to add Sections 11805.5 and 11964.5 to, the Health and Safety Code, relating to alcohol and drug programs.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 11805 of the Health and Safety Code is amended to read:

11805. (a) Except as provided in subdivisions (b) and (c) of this

section and Section 11805.5, each county shall have an advisory board on alcohol problems composed of 15 members appointed by the board of supervisors. Members shall have a professional interest in, or personal commitment to, alleviating problems related to inappropriate alcohol use in their community. The membership shall include representatives from various economic, social, and occupational groups and shall be broadly representative of the demographic characteristics of the county.

The advisory board shall be independent from any other advisory board established pursuant to any provision of state law. However, the advisory board shall coordinate its efforts, where appropriate, with other county advisory boards concerned with alcohol problems.

This subdivision shall apply only to counties whose population exceeds 200,000.

(b) In counties whose population is between 125,000 and 200,000, the board of supervisors shall appoint an independent advisory board which shall be composed of not less than seven nor more than 15 members. Such boards shall meet the same membership requirements as described in subdivision (a) of this section.

(c) In counties whose population does not exceed 125,000, the board of supervisors shall appoint an advisory board which shall be composed of not less than seven nor more than 15 members which may: (1) be independent, (2) be under the jurisdiction of another health-related advisory board established pursuant to any provision of state law, or (3) have the same membership as such other advisory board. Except where in conflict with other provisions of law, boards described in this subdivision shall meet the same membership requirements as described in subdivision (a) of this section.

(d) If two or more counties whose combined population exceeds 200,000, jointly apply to the department for funds under this part, the advisory board for its alcohol program shall consist of 15 members appointed pursuant to the requirements of subdivison (a). If the combined population of such counties does not exceed 200,000, the requirements of subdivision (b) or (c) shall apply as appropriate to these counties.

SEC. 2. Section 11805.5 is added to the Health and Safety Code, to read:

11805.5. Notwithstanding Section 11805, the board of supervisors of a county may, by resolution, elect to satisfy the requirements of Section 11964.5 as an alternative means of providing an advisory board on alcohol problems.

SEC. 3. Section 11964 of the Health and Safety Code is amended to read:

11964. (a) Except as provided in subdivision (b) and Section 11964.5, each county shall have an advisory board on drug programs composed of not less than seven members appointed by the board of supervisors. Members shall have a professional interest in, or personal commitment to, alleviating problems related to drug abuse in their community. The membership shall include representatives

from various economic, social, and occupational groups and shall be broadly representative of the demographic characteristics of the county.

The advisory board shall be independent from any other advisory board established pursuant to any provision of state law. However, the advisory board shall coordinate its efforts, where appropriate, with other county advisory boards concerned with drug problems.

This subdivision applies only to counties the population of which exceeds 125,000.

(b) In counties where the population does not exceed 125,000, the board of supervisors shall appoint an advisory board which shall be composed of not less than seven members which may be independent, under the jurisdiction of another health-related advisory board established pursuant to any provision of state law, or has the same membership as such other advisory board or agency. It is the intent of the Legislature that the boards meet the same membership requirements described in subdivision (a).

(c) If two or more counties the combined population of which exceeds 200,000 jointly apply to the department for funds under this part, the advisory board for its drug program shall consist of not less than 15 members, and shall otherwise be subject to the requirements of subdivision (a). If the combined population of the counties does not exceed 200,000, the requirements of subdivision (b) shall apply to the counties.

(d) The Legislature recognizes that persons employed by programs which provide drug abuse services and members of their boards of directors have a great deal of knowledge and experience to share with other people in the community concerned with alleviating drug abuse problems. The Legislature also recognizes that there are many people in the community who have knowledge about, or interest or experience in, alleviating drug problems who do not have any direct or indirect financial or other relationship to drug programs in the county. The Legislature desires to include both groups of these persons on advisory boards and also to establish control for real or apparent conflicts of interest that might arise.

Therefore, there may be at least two representatives of a public or private drug abuse program, and these members shall comply with existing conflict of interest laws when participating in the tasks and functions of the board. The advisory board shall not include in excess of 33⅓ percent of its membership any person, or his or her spouse, who is any of the following:

(1) A member of a board of directors or advisory body or employee of any county operated or county contract provider of drug services, or of any program approved pursuant to Section 11876.

(2) A direct recipient of any state funds allocated under this part pursuant to a contract with the department, which shall include compensation for contracted services or membership on an advisory body or board of directors of the recipient agency.

(e) Except as required under subdivision (b), the advisory board

shall not include any person, or his or her spouse, who is any of the following:

(1) A member of the board of supervisors or a person on the staff of a member of the board of supervisors.

(2) A county employee of the health-related agency or department, with which the drug program administrator designated pursuant to Section 11962 may be affiliated.

The board of supervisors may, by resolution, designate further categories of persons who may not serve on the board, as long as the prohibitions are consistent with the intent of this section. It is the intent of the Legislature in authorizing the board of supervisors to designate these further categories that the integrity of, and the community's confidence in, the advisory board be maintained.

(f) In the event that prior to the expiration of his or her term, a member ceases to retain the status which qualified him or her for appointment to the advisory board, his or her membership on the advisory board shall terminate and there shall be a vacancy on the advisory board to be filled by the board of supervisors.

(g) The members of the advisory board may be removed for cause pursuant to standards adopted by the advisory board which are consistent with this article and which are approved by the board of supervisors.

(h) Each member of the board shall be appointed for a term of three years. Persons already serving as members of the drug advisory board may continue to serve until the expiration of their terms, as long as they meet the other conditions for membership required pursuant to this article.

(i) The advisory board shall meet at least bimonthly and may meet at other times as may be deemed necessary by the chair or drug program administrator. The members of the advisory board shall serve without compensation, but may be reimbursed for any actual and necessary expenses incurred in connection with their duties under this article. However, the members may receive compensation out of county funds at the option of the board of supervisors.

(j) All meetings of the advisory board shall be open to the public and shall be subject to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

(k) The advisory board shall do all of the following:

(1) Participate in the planning process.

(2) Review the county drug program plan and any amendments to the plan.

(3) Advise the county drug program administrator on policies and goals of the county drug program and on any other related matters the drug program administrator refers to it, or which are raised by the advisory board.

(4) Encourage and educate the public to understand the nature of drug problems, and encourage support throughout the county for

development and implementation of effective drug abuse programs.

(5) Review the community's drug program needs, services, facilities, and special programs.

(6) Review and approve the procedures used to insure citizen and professional involvement at all stages of the planning process leading to the formulation and adoption of the county drug program plan.

SEC. 4. Section 11964.5 is added to the Health and Safety Code, to read:

11964.5. (a) A county may, upon adoption of a resolution by the board of supervisors electing to satisfy the requirements of this section rather than Sections 11805 and 11964, establish a drug and alcohol advisory board. Members of the advisory board shall have a professional interest in, or personal commitment to, alleviating problems related to drug abuse and inappropriate alcohol use in their community. The membership shall include representatives from various economic, social, and occupational groups and shall be broadly representative of the demographic charactertistics of the county.

(b) In order to transition from the existing separate alcohol advisory board and drug advisory board provided under Sections 11805 and 11964, the board of supervisors may initially combine the existing boards. Except as otherwise provided in this subdivision, as terms expire on the existing alcohol advisory board and drug advisory board, seats shall be eliminated until the combined alcohol and drug advisory board consists of at least 15 members and no more than 20 members, all of whom shall be appointed by the board of supervisors. The intent of the Legislature is to both provide for an advisory board of manageable size and to continue to encourage citizen participation in the planning of alcohol and drug programs in the county. The board of supervisors may, therefore, provide for the transition to a single advisory board consisting of more than 20 members and for the elimination of seats more gradually than as terms expire if, in the judgment of the board of supervisors, such an extended transition will better accomplish the goal of encouraging citizen participation in the planning of alcohol and drug programs in the county.

(c) Except as otherwise provided in subdivision (e), the alcohol and drug advisory board shall not include any person, or his or her spouse, who is any of the following:

(1) A member of a board of directors or advisory body or employee of any county operated alcohol or drug program or provider of alcohol or drug services operating under a contract with the county.

(2) A member of any advisory body to, or a person who holds any similar position or title on a compensated or noncompensated basis in, a program which seeks to or possesses a license pursuant to Chapter 9 (commencing with Section 11836).

(3) A direct recipient of any state funds allocated under this part pursuant to a contract with the department, which shall include

compensation for contracted services from, or membership on an advisory body or board of directors of, the entity which receives funds.

(4) An employee of the county's health services department.

(d) Except as otherwise provided in subdivision (e), in the event that prior to the expiration of his or her term, a member ceases to retain the status which qualified him or her for appointment to the advisory board, his or her membership on the advisory board shall terminate and there shall be a vacancy on the advisory board to be filled by the board of supervisors.

(e) The board of supervisors shall determine in the resolution choosing to be governed by this section the length of terms on the alcohol and drug advisory board. Each member of the advisory board shall serve a term as specified in the board of supervisors resolution choosing to be governed by this section. Persons who are already members of the alcohol advisory board or drug advisory board at the time the advisory boards are combined may continue to serve until the expiration of their terms, notwithstanding subdivision (c) or (d), provided that at the time the advisory boards are combined, the persons meet the qualifications of Section 11807 if they were members of the alcohol advisory board, or Section 11964 if they were members of the drug advisory board.

(f) The advisory board shall meet at least once every other month and may meet at other times as may be deemed necessary by the chairperson of the advisory board, the alcohol program administrator, the drug program administrator, or the director of health services for the county. The members of the advisory board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties under this article. However, the members may also receive compensation out of county funds at the option of the board of supervisors.

(g) All meetings of the alcohol and drug advisory board shall be open to the public and shall be subject to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code relating to meetings of local agencies.

(h) The alcohol and drug advisory board shall have those duties specified in Section 11809 and subdivision (k) of Section 11964. The advisory board may, in addition, submit any comments regarding the county alcohol or drug programs or minutes of its meetings to the board of supervisors, in addition to the submissions to the board of supervisors required pursuant to Article 4 (commencing with Section 11810).

(i) Any county which elects to combine its advisory boards on alcohol and drug programs pursuant to this section shall assure that the integrity and separate identity of its county drug programs and county alcohol programs are maintained.

CHAPTER 297

An act to add Section 4611 to the Civil Code, relating to child custody proceedings.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 4611 is added to the Civil Code, to read:

4611. If a court determines that an accusation of child abuse or neglect made during a child custody proceeding under this title was false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose reasonable money sanctions, not to exceed one thousand dollars ($1,000) and reasonable attorney's fees incurred in recovering the sanctions, against the person making the accusation. For the purpose of this section, "person" includes a witness, a party or a party's attorney.

Upon motion by any person requesting sanctions under this section, the court shall issue its order to show cause why the requested sanctions should not be imposed. The order to show cause shall be served upon the person against whom the sanctions are sought and a hearing thereon shall be scheduled by the court to be conducted at least 15 days after the order is served.

The remedy provided by this section is in addition to any other remedy provided by law.

CHAPTER 298

An act relating to transportation.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

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

(a) In view of escalating air fares, growing traffic congestion on state highways, deteriorating air quality, and diminishing natural resources which have taken place as a result of existing modes of transportation, there is a critical need to increase the number of rail transportation alternatives between northern and southern California.

(b) Pursuant to the study conducted by the Department of Transportation in accordance with Assembly Concurrent Resolution 66 (Resolution Chapter 142 of the Statutes of 1989), the Department

of Transportation conclusively found that overnight passenger rail service between Sacramento, the San Francisco Bay area, Santa Barbara, and Los Angeles would meet state-mandated efficiency standards and would serve the growing transportation needs between northern and southern California.

(c) The department has suggested that Horizon Fleet or superliner-type coaches available to the National Passenger Rail Corporation (Amtrak) might be available to meet the rolling stock needs of this potential service.

(d) The department indicates that a variety of methods and funding sources may be available to finance the procurement of capital equipment needed for the overnight service.

SEC. 2. (a) The Department of Transportation shall meet with the National Passenger Rail Corporation to determine the feasibility of procuring and modifying Horizon Fleet or superliner-type coaches for use in potential overnight service between Sacramento, the San Francisco Bay area, Santa Barbara, and Los Angeles.

(b) The department shall determine the most cost-effective method for financing the procurement of capital equipment and specifically identify potential revenue sources to finance this procurement and estimate the operational costs associated with this service. As part of its determination, the department shall update and itemize all costs which were identified pursuant to Assembly Concurrent Resolution No. 66 (Resolution Chapter 142 of the Statutes of 1989).

(c) The department shall report to the Legislature by March 1, 1991, on the outcome of its meetings with the National Passenger Rail Corporation and on the information requested pursuant to this section.

CHAPTER 299

An act relating to fees.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. The Legislature finds and declares that during the 1986–87, 1987–88, and 1988–89 fiscal years, administrative errors were made within County of Nevada in the collection of building permit fees, that these errors were inadvertent during a particularly active period of construction within the county, and that overpayments of these fees may have resulted. The Board of Supervisors of the County of Nevada may refund that amount of building permit fees collected during the 1986–87, 1987–88, and 1988–89 fiscal years which exceeded the actual cost incurred by the county building department for its

regulatory activities. If the board of supervisors elects to refund excess fees pursuant to this act, it shall adopt a resolution establishing the terms and conditions of the refund, including the disposition of any unclaimed fees. The county shall first mail the notice of the resolution to each person who paid the excess fees and then shall publish the same notice in the manner provided for in Section 6064 of the Government Code, which notice shall be completed by March 31, 1991. The county shall determine the actual costs for providing the related service. The county's refunding costs shall not exceed building permit fee revenues collected during the fiscal years prescribed in this section. "Refunding costs" as used in this section, means all costs associated with the issuance and enforcement of building permits during the fiscal years covered by this act and the calculated amount of total refunds. No refund shall reduce the claimant's permit fee below the actual costs of providing the related service as determined by the county. If the county determines it is necessary, it may prorate refund payments. The claim shall be made under oath by the person who paid the fee, his or her guardian, executor, or administrator. All claims shall be filed with the county no later than March 31, 1992. Within 90 days after this deadline, the county shall refund the excess fees to all those persons who filed a valid claim pursuant to this section. If implemented by the County of Nevada, this act shall provide the exclusive remedy, with respect to any person submitting a claim pursuant to this act, for the reimbursement of amounts of overpayment of building permit fees which may have occurred during the 1986–87, 1987–88, and 1988–89 fiscal years.

SEC. 2. Due to the unique circumstances concerning the excess charges for building permit fees relating to the County of Nevada, as described in Section 1 of this act, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 300

An act to add Section 77.1 to the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959), relating to the Antelope Valley-East Kern Water Agency.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 77.1 is added to the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959), to read:

Sec. 77.1. (a) In addition to other powers provided in this act, the

agency may establish and impose a one-time facility capacity fee as provided in Section 54991 of the Government Code, which is in the nature of a connection fee, for the right to make a new retail connection to the water distribution system of any retail water distributor within the agency which obtains all or a portion of its water supplies from the agency. The consumer for which the retail connection is made shall be liable for the fee. Fees shall be adopted, established, and imposed only if the board of directors of the agency complies with this section and Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the Government Code, and it shall not be necessary for the retail water distributor to comply with these provisions separately. However, a facility capacity fee may not be imposed within a retail water distributor's jurisdiction unless the appropriate retail water distributor enters into an agreement with the agency.

Prior to imposing the fee, the board of directors shall assess the sufficiency of (1) existing facilities for water importation, production, treatment, transportation, and delivery, (2) related works and real property, and (3) water supplies. Sufficiency shall be defined as meeting and not exceeding existing and anticipated demand of the retail agencies served by the agency.

(b) If the board determines that existing facilities, related works and real property, and water supplies are not sufficient, the board may do the following:

(1) Adopt plans for the following:

(A) Obtaining or constructing additional facilities, works, real property, and supplies of water.

(B) Increasing or enlarging existing capacity and facilities for obtaining, importing, producing, treating, storing, and delivering the additional quantity of water.

(C) Financing the cost of acquiring or constructing those facilities, works, property, improvements, and supplies of water and for allocating that cost among lands within the agency.

(D) Allocating water supplies and capacity in existing and future planned facilities.

(2) Establish facility capacity fees, if any, which shall be imposed to finance the cost of acquiring or constructing facilities, works, real property, and supplies of water to satisfy anticipated demand.

(c) The board may contract for the collection of the fee with either of the following:

(1) The counties or cities within the agency for the collection of the fee along with fees related to the improvement of property.

(2) The retail water distributor.

(d) Any action taken by the board of directors pursuant to this section shall be by resolution.

CHAPTER 301

An act to amend Section 5100 of the Business and Professions Code, relating to accountancy.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 5100 of the Business and Professions Code is amended to read:

5100. After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) Fraud or deceit in obtaining a certificate as a certified public accountant or in obtaining registration under this chapter or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation or suspension of a certificate, other authority to practice or refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.

(e) Violation of Section 5120.

(f) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(g) Suspension or revocation of the right to practice before any governmental body or agency.

(h) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(i) Knowing preparation, publication or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(j) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

CHAPTER 302

An act to add Sections 988 and 989 to the Insurance Code, relating to insurance.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 988 is added to the Insurance Code, to read:

988. (a) As used in this section:

(1) "Impaired" means a financial situation in which the assets of an insurer are less than the sum of the insurer's minimum required capital, minimum required surplus and all liabilities as determined in accordance with the requirements for the preparation and filing of the annual statement of an insurer.

(2) "Chief executive officer" means the person, irrespective of title, designated by the board of directors or trustees of an insurer as the person charged with the responsibility of administering and implementing the insurer's policies and procedures.

(b) Whenever an insurer is impaired, its chief executive officer shall immediately notify the commissioner, in writing of that impairment and shall also immediately notify in writing all of the board of directors or trustees of the insurer. Any officer, director, or trustee of an insurer shall notify the person serving as chief executive officer of the impairment of the insurer in the event the officer, director, or trustee knows or has reason to know that the insurer is impaired.

(c) Any person who violates this section shall, upon conviction thereof, be fined not more than fifty thousand dollars ($50,000) or be imprisoned in the county jail for not more than one year, or both.

SEC. 2. Section 989 is added to the Insurance Code, to read:

989. Any person who does any of the following is guilty of a misdemeanor punishable by not more than one year in county jail:

(a) Conceals any property belonging to an insurer.

(b) Transfers or conceals in contemplation of a state insolvency proceeding his or her own property or property belonging to an insurer.

(c) Conceals, destroys, mutilates, alters or makes a false entry in any document which affects or relates to the property of an insurer or withholds any such document from a receiver, trustee or other officer of a court entitled to its possession.

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.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 303

An act to amend Section 22507.8 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 22507.8 of the Vehicle Code is amended to read:

22507.8. (a) It is unlawful for any person to park or leave standing any vehicle in a stall or space designated for disabled persons and disabled veterans pursuant to Section 22511.7 or 22511.8, unless the vehicle displays either a distinguishing license plate or a placard issued pursuant to Section 22511.5.

(b) It is unlawful for any person to obstruct, block, or otherwise bar access to those parking stalls or spaces except as provided in subdivision (a).

(c) It is unlawful for any person to park or leave standing any vehicle, including a vehicle displaying a distinguishing license plate or placard issued pursuant to Section 22511.5, in either of the following places:

(1) On the lines marking the boundaries of a parking stall or space designated for disabled persons or disabled veterans.

(2) In any area of the pavement within a parking lot or parking facility that is marked by crosshatched lines and is thereby designated for the loading and unloading of vehicles pursuant to any local ordinance.

(d) Subdivisions (a), (b), and (c) apply to all offstreet parking facilities owned or operated by the state, and to all offstreet parking facilities owned or operated by a local authority. Subdivisions (a), (b), and (c) also apply to any privately owned and maintained offstreet parking facility.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become

operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 304

An act to add Section 637.6 to the Penal Code, relating to privacy.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 637.6 is added to the Penal Code, to read:

637.6. (a) No person who, in the course of business, acquires or has access to personal information concerning an individual, including, but not limited to, the individual's residence address, employment address, or hours of employment, for the purpose of assisting private entities in the establishment or implementation of carpooling or ridesharing programs, shall disclose that information to any other person or use that information for any other purpose without the prior written consent of the individual.

(b) As used in this section, "carpooling or ridesharing programs" include, but shall not be limited to, the formation of carpools, vanpools, buspools, the provision of transit routes, rideshare research, and the development of other demand management strategies such as variable working hours and telecommuting.

(c) Any person who violates this section is guilty of a misdemeanor, punishable by imprisonment in the county jail for not exceeding one year, or by a fine of not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 305

An act to amend Section 43213 of the Public Resources Code, relating to solid waste.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 43213 of the Public Resources Code is amended to read:

43213. The enforcement agency may, upon a majority vote of its local governing body, prescribe, revise, and collect fees or other charges from each operator of a solid waste facility or from any person who conducts solid waste handling if the local governing body having ratesetting authority has approved rate adjustments to compensate the solid waste hauler or solid waste facility operator for the amount of the fee or charges imposed pursuant to this section. The fee or other charge shall be based on the weight, volume, or type of solid waste which is received or handled by any such operator or person or on any other appropriate basis or any combination of the foregoing. In no case shall the fee or other charge imposed by the enforcement agency under this section exceed the actual cost of the solid waste enforcement authorized under this title.

CHAPTER 306

An act to amend Section 24010 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 24010 of the Vehicle Code is amended to read:

24010. (a) No person engaged in the rental of any vehicle, for periods of 30 days or less, shall rent, lease or otherwise allow the operation of such vehicle unless all of the following requirements are met:

(1) All necessary equipment required by this code and regulations adopted pursuant to this code for the operation of the vehicle upon a highway has been provided or offered to the lessee for his or her use.

(2) The vehicle conforms to all applicable federal motor vehicle safety standards established under the National Traffic and Motor

Vehicle Safety Act of 1966 (15 U.S.C. Sec. 1381 et seq.) and the regulations adopted under that act.

(3) The vehicle is mechanically sound and safe to operate within the meaning of Section 24002.

(b) In order to ensure compliance with this section, the department may conduct periodic inspections, without prior notice, of the business premises of persons engaged in the rental of vehicles for periods of 30 days or less and of the vehicles themselves, for the purpose of ascertaining that the vehicles are in compliance with this section. Any vehicle which is found not in compliance shall not be rented or leased until proof of full compliance with this section is made to the satisfaction of the department.

(c) The contract or rental agreement shall include the name of the person from whom the vehicle is rented, leased or obtained, the address of that person's place of business in this state where the vehicle is rented, leased, or delivered, and a statement of any required equipment refused by the person to whom the vehicle is rented, leased, or delivered.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 307

An act to add Section 5784.39 to the Public Resources Code, relating to recreation and park districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 5784.39 is added to the Public Resources Code, to read:

5784.39. A district may impose a special tax pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. The special taxes shall be applied uniformly to all taxpayers or all real property within the district, except that unimproved property may be taxed at a lower rate than improved property.

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:

Local officials are required to act by early August 1990 to call elections in November 1990. In order that a proposition for the imposition of a special tax may be presented to and considered by the voters of a recreation and park district at the November 6, 1990 general election, it is necessary for this act to take effect immediately.

CHAPTER 308

An act to amend Section 53069.3 of the Government Code, relating to local government.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 53069.3 of the Government Code is amended to read:

53069.3. A city or county may enact an ordinance to provide for the use of city or county funds to remove graffiti or other inscribed material from public or privately owned permanent structures located on public or privately owned real property within such city or county.

Such ordinance shall only authorize the removal of the graffiti or other inscribed material itself, and not the painting or repair of a more extensive area.

Such removal may be performed, only after a finding by the city or county that the graffiti or other inscribed material is obnoxious, and, in the case of a publicly owned structure, only after securing the consent of the public entity having jurisdiction over the structure, and in the case of a privately owned structure, only after securing the consent of the owner.

As used in this section, "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, or design that is marked, etched, scratched, drawn, or painted on any structural component of any building, structure, or other facility, regardless of the nature of the material of that structural component.

This section does not preclude the abatement of graffiti or other inscribed material as a nuisance pursuant to Section 25845 or 38773.5, or the enactment or enforcement of any criminal law with respect to nuisance.

CHAPTER 309

An act to amend Section 1748.1 of the Civil Code, and to amend Sections 22651.1 and 22658 of the Vehicle Code, relating to credit cards.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 1748.1 of the Civil Code is amended to read:

1748.1. (a) No retailer in any sales, service, or lease transaction with a consumer may impose a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means. A retailer may, however, offer discounts for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card, provided that the discount is offered to all prospective buyers.

(b) Any retailer who willfully violates this section by imposing a surcharge on a cardholder who elects to use a credit card and who fails to pay that amount to the cardholder within 30 days of a written demand by the cardholder of the retailer by certified mail, shall be liable to the cardholder for three times the amount at which actual damages are assessed. The cardholder shall also be entitled to recover reasonable attorney's fees and costs incurred in the action.

A cause of action under this section may be brought in small claims court, if it does not exceed the jurisdiction of that court, or in any other appropriate court.

(c) A consumer shall not be deemed to have elected to use a credit card in lieu of another means of payment for purposes of this section in a transaction with a retailer if only credit cards are accepted by that retailer in payment for an order made by a consumer over a telephone, and only cash is accepted at a public store or other facility of the same retailer.

(d) Charges for third-party credit card guarantee services, when added to the price charged by the retailer if cash were to be paid, shall be deemed surcharges for purposes of this section even if they are payable directly to the third party or are charged separately.

(e) It is the intent of the Legislature to promote the effective operation of the free market and protect consumers from deceptive price increases for goods and services by prohibiting credit card surcharges and encouraging the availability of discounts by those retailers who wish to offer a lower price for goods and services purchased by some form of payment other than credit card.

SEC. 2. Section 22651.1 of the Vehicle Code is amended to read:

22651.1. Persons operating or in charge of any storage facility where vehicles are stored pursuant to Section 22651 shall accept a valid bank credit card or cash for payment of towing and storage by

the registered owner, legal owner, or the owner's agent claiming the vehicle. In addition, persons operating or in charge of the storage facility shall have sufficient funds on the premises to accommodate and make change in a reasonable monetary transaction.

Credit charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when agreeing with a towing or storage provider on rates.

SEC. 3. Section 22658 of the Vehicle Code is amended to read:

22658. (a) Except as provided in Section 22658.2, the owner or person in lawful possession of any private property may, subsequent to notifying, by telephone or, if impractical, by the most expeditious means available, the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle parked on the property to the nearest public garage if (1) there is displayed, in plain view at all entrances to the property, a sign not less than 17 by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency, and the sign may also indicate that a citation may also be issued for the violation, or (2) the lot or parcel upon which the vehicle is parked is improved with a single-family dwelling.

(b) The person causing removal of the vehicle shall, if the person knows or is able to ascertain from the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner of the vehicle, immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of the removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. If the vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal. If the person does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, the person causing removal of the vehicle shall comply with the requirements of subdivision (c) of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property.

(c) This section does not limit or affect any right or remedy which the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon private property.

(d) The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of any person causing the removal of, or removing, the vehicle.

(e) Any owner or person in lawful possession of any private property, or an "association" pursuant to Section 22658.2, causing the

removal of a vehicle parked on that property is liable for double the storage or towing charges whenever there has been a failure to post a sign as required by subdivision (a) or to state the grounds for the removal of the vehicle if requested by the legal or registered owner of the vehicle as required by subdivision (f).

(f) Any owner or person in lawful possession of any private property, or an "association" pursuant to Section 22658.2, causing the removal of a vehicle parked on that property shall state the grounds for the removal of the vehicle if requested by the legal or registered owner of that vehicle. Any towing company that removes a vehicle from private property with the authorization of the property owner or the property owner's agent shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes the vehicle under this section shall be responsible for (1) any damage to the vehicle in the transit and subsequent storage of the vehicle and (2) the removal of a vehicle other than the vehicle specified by the owner or other person in lawful possession of the private property.

(g) Possession of any vehicle under this section shall be deemed to arise when a vehicle is removed from private property and is in transit.

(h) A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of a vehicle at the request of the owner of private property or that owner's agent pursuant to this section if the owner of the vehicle or the owner's agent returns to the vehicle before it is removed from the private property. The regular towing charge may only be imposed after the vehicle has been removed from the property and is in transit.

(i) A charge for towing or storage, or both, of a vehicle under this section is excessive if the charge is greater than that which would have been charged for towing or storage, or both, made at the request of a law enforcement agency under an agreement between the law enforcement agency and a towing company in the city or county in which is located the private property from which the vehicle was, or was attempted to be, removed.

If a request to release a vehicle is made within eight hours from the time the vehicle is brought into the storage facility, regardless of the calendar date, the storage charge shall be for only one day. Not more than one day's storage charge may be required for any vehicle released the same day that it is stored.

(j) Any person who charges a vehicle owner a towing, service, or storage charge at an excessive rate, as described in subdivision (i), is liable to the vehicle owner for four times the amount charged.

(k) Persons operating or in charge of any storage facility where vehicles are stored pursuant to this section shall accept a valid bank credit card or cash for payment of towing and storage by a registered owner or the owner's agent claiming the vehicle. In addition, persons operating or in charge of the storage facility shall have sufficient moneys on the premises to accommodate, and make change in, a

reasonable monetary transaction.

Credit charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when making agreements with towing companies as described in subdivision (i).

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 310

An act to amend Section 20229.1 of the Public Contract Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 20229.1 of the Public Contract Code is amended to read:

20229.1. (a) Notwithstanding any other provision of law, the governing board of the San Francisco Bay Area Rapid Transit District may direct the purchase of electronic data-processing or telecommunications equipment or rail cars by competitive negotiation upon a finding by two-thirds of all members of the board that the purchase of electronic data-processing, telecommunications equipment, or rail cars in compliance with provisions of this code generally applicable to the purchase does not constitute a method of procurement adequate for the district's needs.

(b) Competitive negotiation, for the purposes of this section, shall include, as a minimum, all of the following elements:

(1) A request for proposal shall be prepared and submitted to an adequate number of qualified sources, as determined by the district in its discretion, to permit reasonable competition consistent with the nature and requirements of the procurement. In addition, notice of the request for proposal shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before the proposals are received. The district shall make every effort to generate the maximum feasible number of

proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the request for proposal is received.

(2) The request for proposal shall identify significant evaluation factors, including price, and their relative importance.

(3) The district shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for contract award.

(4) Award shall be made to the qualified bidder whose proposal will be most advantageous to the district with price and other factors considered. If award is not made to the bidder whose proposal contains the lowest price, the board shall make a finding setting forth the basis for the award.

(c) The board may reject any and all proposals and request new proposals at its discretion.

(d) A person who submits, or who plans to submit, a proposal may protest any acquisition conducted in accordance with this section as follows:

(1) Protests based on the content of the request for proposal shall be filed with the district within 10 calendar days after the request for proposal is first advertised in accordance with subdivision (b). The district shall issue a written decision on the protest prior to opening of proposals. A protest may be renewed by refiling the protest with the district within 15 calendar days after the mailing of the notice of the recommended award.

(2) Any bidder may protest the recommended award on any ground not based upon the content of the request for proposals by filing a protest with the district within 15 calendar days after the mailing of the notice of the recommended award.

(3) Any protest shall contain a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. Protestors shall have an opportunity to appear and be heard before the board prior to the opening of proposals in the case of protests based on the content of the request for proposals, prior to final award in the case of protests based on other grounds or the renewal of protests based on the content of the request for proposals.

(e) Where the district, through competitive negotiation, has entered into lease agreements for electronic data-processing, telecommunications equipment, or rail cars subsequent to December 1, 1980, the district may purchase the equipment directly from the lessor upon a finding by two-thirds of all members of the board that the purchase of electronic data-processing, telecommunications equipment, or rail cars in compliance with provisions of this code generally applicable to the purchase does not constitute a method of procurement adequate for the district's needs.

(f) Provisions in any contract concerning women and minority business enterprises, which provisions are in accordance with the

request for proposals, shall not be subject to negotiation with the successful bidder.

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 San Francisco Bay Area Rapid Transit District be able to proceed immediately with the procurement of 70 additional rail cars so as to be able to initiate extended transit services at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 311

An act to amend Section 1702.1 of the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 1702.1 of the Public Utilities Code is amended to read:

1702.1. (a) The commission shall entertain complaints against any electrical, gas, water, heat, or telephone company under Sections 734, 735, and 736 when the amount of money claimed does not exceed the jurisdictional limit of the small claims court as set forth in subdivision (a) of Section 116.2 of the Code of Civil Procedure. However, when the public interest so requires, the commission or presiding officer may, at any time prior to the filing of a decision, terminate the expedited complaint procedure and recalendar the matter for hearing under the commission's regular procedure.

(b) No attorney at law shall represent any party other than himself or herself under the expedited complaint procedure.

(c) No pleading other than the complaint and answer is necessary. A hearing without a reporter shall be held within 30 days after the answer is filed.

(d) The parties may file applications for rehearing pursuant to Section 1731. If the commission grants an application for rehearing, the rehearing shall be conducted under the commission's regular hearing procedure.

CHAPTER 312

An act to amend Section 58604.5 of the Food and Agricultural Code, relating to marketing orders.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 58604.5 of the Food and Agricultural Code is amended to read:

58604.5. "Advertising and sales promotion" also means, in addition to its ordinary accepted meaning, activities for the modification or removal of trade barriers that restrict the free flow of a commodity to market, including negotiation with federal and foreign governments, and the allowance of reimbursement payments to offset commodity transportation or other costs to selected domestic and foreign markets.

Domestic f.o.b. selling price shall not be used as a factor in determining qualifications for reimbursement payments unless the director determines that there is no feasible alternative for establishing these qualifications.

CHAPTER 313

An act to amend Sections 21200.3, 21211, 21365.5, and 21366 of, to add Section 21368 to, and to repeal Sections 21025.6 and 21201.6 of, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 21025.6 of the Government Code is repealed.

SEC. 2. Section 21200.3 of the Government Code is amended to read:

21200.3. (a) Notwithstanding Section 21200.1, the board may fix the effective date of a member's retirement as of a date earlier than the first of the month in which an application for retirement is received in the office of the board, if the board finds: (1) an application is in fact received within nine months following the member's separation from state service; (2) the member separated from state service with the intention of retiring; (3) the member failed to submit an application for retirement due to

misunderstanding of the requirement therefor, or the member or member's employer undertook to transmit an application for retirement and failed or delayed unreasonably in the transmission; and (4) the member is living on the date the application is actually received at the office of the board. An effective date fixed pursuant to this section may not be earlier than the effective date found to have been specified in the original application or earlier than the day following the last day for which salary was payable. For purposes of this section, the member's intention to retire may be determined by personnel documents prepared by the employer at the time of the member's separation or by affidavit of the member, coworkers or the employer.

(b) Notwithstanding any other provision of law, a member who separates from a retirement system which has established reciprocity with this system, and who files his or her retirement application with the board within nine months of that separation, and who separated from that retirement system with the intention of retiring concurrently under both systems, may have his or her application received and acted upon by this system as if filed pursuant to paragraph (a).

SEC. 3. Section 21201.6 of the Government Code is repealed.

SEC. 4. Section 21211 of the Government Code is amended to read:

21211. (a) If a person had no beneficiary designation in effect on the date of death, any benefit payable shall be paid to the survivors of the person in the following order:

(1) The decedent's spouse.

(2) The decedent's natural or adopted children, including a natural child adopted by another who meets any of the following criteria:

(A) The natural parent and adopted child lived together at any time as parent and child.

(B) The natural parent was married to or was cohabitating with the other natural parent at the time the child was conceived and died before the birth of the child.

(C) The child was adopted by the spouse of either of the natural parents or after the death of either of the natural parents.

(D) The child is a natural child adopted by another as that phrase is defined or construed by the Probate Code.

(3) The decedent's parents.

(4) The decedent's brothers and sisters.

(b) If a deceased person had no effective beneficiary designation and there are no survivors in the groups specified in subdivision (a) who are entitled to the benefit under this section, the benefit shall be paid to the estate of the decedent, if the estate is either probated or subject to probate. Any benefit payable by this system may be paid either to the estate or to the duly authorized representative or representatives of the estate upon receipt by the system of a court order appointing an executor, administrator, or personal

representative.

(c) If there are no survivors in the groups specified in subdivision (a) and the estate of the person described by subdivision (b) does not require probate, irrespective of whether probate is filed, the benefit shall be paid directly to the surviving next of kin in the following order:

(1) Stepchildren.

(2) Grandchildren, including stepgrandchildren.

(3) Nieces and nephews.

(4) Great grandchildren.

(5) Cousins.

(d) For purposes of determining the application of subdivisions (b) and (c), the amount of the benefit payable from the Public Employees' Retirement System shall not be included in calculating the worth of the estate.

(e) For purposes of this section, the term "stepchild" shall mean a person who had a regular parent-child relationship with the deceased person.

SEC. 5. Section 21365.5 of the Government Code is amended to read:

21365.5. Upon the death of a member who has attained the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, and who is eligible to retire and in circumstances in which the basic death benefit is payable other than solely that of membership in a county retirement system, or a retirement system maintained by the university, a monthly allowance equal to one-half of and derived from the same source as the unmodified retirement allowance which the member would have been entitled to receive if he or she had retired for service on the date of his or her death shall be payable:

(a) To the surviving wife of a male member as long as she lives or until her remarriage; or

(b) To a surviving husband of a female member as long as he lives or until his remarriage; or

(c) To the children under age 18 collectively if there is no surviving spouse or if the surviving spouse dies or remarries before all children of the deceased member attain age 18, until every child dies or attains age 18; provided, that no child shall receive any allowance after marrying or attaining the age of 18.

Where a member does not have a surviving spouse nor any children under the age of 18 years at the time of death, no allowance shall be payable under this section.

No allowance shall be payable under this section if a special death benefit is payable.

The allowance provided by this section shall be paid in lieu of the basic death benefit but a person, or the person's guardian, qualifying for the allowance may elect before the first payment on account of it to receive the basic death benefit in lieu of the allowance.

If the total of the payments made hereunder is less than the basic

death benefit which was otherwise payable on account of the member's death, the amount of the basic death benefit less any payments made pursuant to this section shall be paid in a lump sum as follows:

(a) If the person last entitled to the allowance is the remarried spouse of the member, to the spouse;

(b) Otherwise, to the surviving children of the member, share and share alike, or if there are no children, to the estate of the person last entitled to the allowance.

The board shall compute the amount by which benefits paid pursuant to this section exceed the benefits which would otherwise be payable and shall charge any excess against the contributions of the state so that there shall be no increase in contributions of members by reason of benefits paid pursuant to this section. As used in this section, "a surviving wife" means a wife that was married to the member for at least one year prior to his death, a "surviving husband" means a husband that was married to the member for at least one year prior to her death, and "child" includes a posthumously born child of the member.

On and after April 1, 1972, this section shall apply to all contracting agencies and to the employees of those agencies with respect to deaths occurring after that operative date, whether or not the agencies have previously elected to be subject to this section.

SEC. 6. Section 21366 of the Government Code is amended to read:

21366. If payment of the special death benefit is stopped because of remarriage or death of the surviving spouse or death, marriage, or attainment of the age of 22 years by a child before the sum of the monthly payment made, exclusive of the annuity derived from the accumulated additional contribution of the deceased, equals the basic death benefit, a lump sum equal to the difference shall be paid the remarried surviving spouse, or if there is no surviving spouse, to the surviving children of the deceased member, share and share alike, or if there are no children, to the estate of the person last entitled to the allowance. In that event, or if there is no surviving spouse, the accumulated additional contributions of the deceased, as they were at his or her death, less the annuity paid as derived from those contributions, and plus interest credited to the accumulated additional contributions, shall be paid in the manner provided in this article for the payments of amounts due in the absence of a designated beneficiary.

SEC. 7. Section 21368 is added to the Government Code, to read:

21368. Any lump-sum benefit, or any uncashed lump-sum death benefit warrant, payable by this system to a beneficiary shall be paid to the estate of the beneficiary if he or she dies prior to payment of the benefit. The benefit may be paid to a representative of the deceased beneficiary's estate, upon demonstration by court documents that the person is authorized to act in that capacity. However, if the estate of the beneficiary is not probated, the benefits

shall be paid to the beneficiary's surviving next of kin, in the order specified in Section 21211.

CHAPTER 314

An act to amend Section 655 of, and to add Chapter 5.4 (commencing with Section 515) to Part 1 of Division 1 of, the Insurance Code, and to amend Sections 16004, 16034, 16054, 16431, 16432, 16433, and 16457 of the Vehicle Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Chapter 5.4 (commencing with Section 515) is added to Part 1 of Division 1 of the Insurance Code, to read:

CHAPTER 5.4. PROOF OF COVERAGE DISCLOSURE

515. Notwithstanding any other provision of law, any insurer issuing policies of automobile liability insurance or motor vehicle liability insurance shall, upon request of either the named insured or the Department of Motor Vehicles, promptly issue to that person or the department written verification as to the existence of that coverage.

SEC. 2. Section 655 of the Insurance Code is amended to read:

655. Every insurer issuing policies of motor vehicle or automobile liability insurance within the meaning of Section 16450 of the Vehicle Code, shall also, as an incident thereto, complete and file the certificate or certificates provided for under Sections 16431 and 16432 of the Vehicle Code. The proof required by this section may be provided by the filing of a single certificate.

SEC. 3. Section 16004 of the Vehicle Code is amended to read:

16004. (a) The department shall suspend the driving privilege of any person who fails, refuses, or neglects to make a report of an accident as required in this chapter.

(b) A suspension taken under this section shall remain in effect until terminated by receipt of the report of the accident or upon receipt of evidence that financial responsibility as provided in Section 16021 is in effect.

(c) The driving privilege shall not be suspended under this section, and, if a suspension has been imposed and is in effect under this section, that suspension shall be terminated, if the driving privilege is suspended under Section 16370 or 16381 as the result of a judgment arising out of the same accident for which the report of the accident is required by this section. The department may

suspend or reimpose the suspension of the driving privilege of a person under this section if the suspension under Section 16370 or 16381 is later set aside for a reason other than that the person has satisfied the judgment in full or to the extent provided in Chapter 2 (commencing with Section 16250) and has given proof of financial responsibility, as provided in Chapter 3 (commencing with Section 16430).

SEC. 4. Section 16034 of the Vehicle Code is amended to read:

16034. (a) Every person convicted of a violation of subdivision (a) of Section 16028 shall, within 60 days of the conviction, file with the department and thereafter maintain for a period of three years, proof of financial responsibility in the same manner as specified in Article 3 (commencing with Section 16050). Every person convicted of a violation of Section 16029 shall, as a condition to (1) return of the person's driver's license following conclusion of the suspension under those provisions or (2) termination of restrictions imposed pursuant to subdivision (b) of Section 16029 one year after imposition thereof, file with the department and thereafter maintain for a period of three years, proof of financial responsibility in the same manner as specified in Article 3 (commencing with Section 16050). If proof of financial responsibility is established by filing evidence that the person obtained an automobile or motor vehicle liability policy or bond, and coverage under the policy or bond terminates, the insurer or surety shall inform the department of the date of termination.

(b) The department shall obtain the record of persons convicted of violations of Section 16029 or subdivision (a) of Section 16028 from the courts as provided in Section 1803.

(c) For purposes of this section, a conviction shall be deemed to have occurred if the criteria of Section 13103 or 13105 are satisfied.

(d) Except as provided in Section 16035 and subdivision (e) of Section 16028, the department shall immediately suspend the driving privileges of any person who fails to file or maintain proof of financial responsibility as required by this section. The suspension shall remain in effect so long as there is a lack of compliance with the requirements of this section.

(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. 5. Section 16054 of the Vehicle Code is amended to read:

16054. (a) Proof may be established by filing with the department satisfactory evidence:

(1) That the owner had an automobile liability policy, a motor vehicle liability policy, or bond in effect at the time of the accident with respect to the driver or the motor vehicle involved in the accident, unless it is established that at the time of the accident the motor vehicle was being operated without the owner's permission, express or implied, or was parked by a driver who had been operating the vehicle without permission.

(2) That the driver of the motor vehicle involved in the accident,

if he or she was not the owner of the motor vehicle, had in effect at the time of the accident an automobile liability policy or bond with respect to his or her operation of the motor vehicle not owned by him or her.

(3) That such liability as may arise from the driver's operation of the motor vehicle involved in the accident is, in the judgment of the department, covered by some form of liability insurance or bond.

(4) That the owner or driver, if he or she is involved in an accident while operating a vehicle of less than four wheels, had in effect at the time of the accident with respect to the driver or vehicle a liability policy or bond that meets the requirements of Section 16056.

(b) Any automobile liability policy or bond referred to in this section shall comply with the requirements of Section 16056 and Sections 11580, 11580.1, and 11580.2 of the Insurance Code, but need not contain provisions other than those required by those sections, and shall not be governed by Chapter 3 (commencing with Section 16430).

SEC. 6. Section 16431 of the Vehicle Code is amended to read:

16431. Proof of financial responsibility may be given by the written certificate or certificates of any insurance carrier duly authorized to do business within the state, that it has issued to or for the benefit of the person named therein a motor vehicle liability policy as defined in Section 16450, an automobile liability policy, or any other liability policy issued for vehicles with less than four wheels that meets the requirements of Section 16056, which, at the date of the certificate or certificates is in full force and effect.

SEC. 7. Section 16432 of the Vehicle Code is amended to read:

16432. The department shall not accept any insurance certificate or certificates unless the same covers all motor vehicles registered in the name of the person furnishing such proof, except that this provision shall not apply to vehicles in storage if the current license plates and registration cards are surrendered to the department in Sacramento. A certificate, under penalty of perjury, of the licensee who causes such certificate or certificates of insurance to be tendered as proof of financial responsibility that the certificate or certificates cover all vehicles registered in his name shall be accepted by the department as prima facie evidence of such fact.

This section does not apply to persons who have violated Section 16004, 16030, 16034, 16070, 16071, or 16072.

SEC. 8. Section 16433 of the Vehicle Code is amended to read:

16433. A certificate or certificates shall certify, if the liability policy therein cited has been canceled, that the department shall be notified in writing within 10 days after the cancellation of insurance becomes final.

Nothing in this section extends coverage beyond the date stated in the notice of cancellation.

SEC. 9. Section 16457 of the Vehicle Code is amended to read:

16457. Whenever proof of financial responsibility is required to be filed pursuant to Section 16432, no person of whom that proof is

required shall drive any motor vehicle not covered by the certificate of proof of financial responsibility filed by him or her with the department, nor shall any applicant for that proof knowingly fail to disclose ownership of a motor vehicle in the application for proof of financial responsibility or to disclose any subsequently acquired motor vehicle.

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

In order for motorists to reinstate their privilege to drive a motor vehicle by the purchase of automobile liability insurance which meets the financial responsibility requirements of the Vehicle Code, and to otherwise satisfy those requirements, it is necessary that this act take effect immediately.

CHAPTER 315

An act to amend Section 48205 of the Education Code, relating to education.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. 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 shall also be excused from school when he or she is the custodial parent of a child who is ill or has a medical appointment during school hours.

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.

CHAPTER 316

An act to amend Section 18951.5 of the Government Code, relating to state employees.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 18951.5 of the Government Code is amended to read:

18951.5. (a) In an examination held on an open, nonpromotional basis under Section 18950, a competitor who has served at least one full year in, or who is a graduate of, the California Conservation Corps, and who attains the passing mark established for the examination, shall have three career credits added to his or her score. Eligibility for career credits pursuant to this section shall expire 24 months after graduation from the California Conservation Corps or five years after graduation if the competitor has participated in a California Conservation Corps scholarship program.

(b) In an examination held on an open, nonpromotional basis under Section 18950, a competitor who has worked full time as either a seasonal fire fighter I or a limited term or permanent intermittent fire fighter II, fire fighter II (paramedic), fire apparatus engineer, or fire apparatus engineer (paramedic), for three months with the California Department of Forestry and Fire Protection since January 1, 1979, and who attains a passing mark established for the examination for fire fighter II, fire fighter II (paramedic), fire apparatus engineer, or fire apparatus engineer (paramedic) shall have three career credits added to his or her score.

CHAPTER 317

An act to amend Sections 799.25, 799.30, and 799.39 of, and to repeal Section 799.48 of, the Civil Code, relating to recreational vehicles.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 799.25 of the Civil Code is amended to read:

799.25. "Recreational vehicle park" means either of the following:

(a) An area or tract of land, within an area zoned for recreational use, where one or more lots are occupied by owners or users of recreational vehicles or tents and which is customarily occupied for temporary purposes and where there is displayed in plain view on the property a sign indicating that the recreational vehicle may be removed from the premises for the reasons specified in Section 799.22 and containing the telephone number of the local traffic law enforcement agency.

(b) An area or tract of land or a separate designated section within a mobilehome park where one or more lots are occupied by owners or users of recreational vehicles used for travel or recreational purposes and where there is displayed in plain view in that area or tract of land or separate section within a mobilehome park a sign indicating that the recreational vehicle may be removed from the premises for the reasons specified in Section 799.22 and containing the telephone number of the local traffic law enforcement agency.

SEC. 2. Section 799.30 of the Civil Code is amended to read:

799.30. The registration agreement between a recreational vehicle park and an occupant thereof shall be in writing and shall contain, in addition to the provisions otherwise required by law to be included, the term of the occupancy and the rent therefor, and a statement of the grounds for which a defaulting occupant's recreational vehicle may be removed as specified in Section 799.22 without a judicial hearing after the service of a 72-hour notice pursuant to this chapter and the telephone number of the local traffic law enforcement agency.

SEC. 3. Section 799.39 of the Civil Code is amended to read:

799.39. The owner or manager of a recreational vehicle park who causes the removal of a defaulting occupant's recreational vehicle, and the individual or entity who removes such vehicle, shall exercise reasonable and ordinary care in removing such vehicle to the storage area. The owner or manager of a recreational vehicle park shall have a lien upon the recreational vehicle and the contents therein for the proper charges due from a defaulting occupant. Such a lien shall be identical to that authorized by Section 1861, and shall be enforced as provided by Sections 1861 to 1861.28, inclusive. Disposition of any

possessions abandoned by an occupant at a recreational vehicle park shall be performed pursuant to Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of Division 3.

SEC. 4. Section 799.48 of the Civil Code is repealed.

CHAPTER 318

An act to amend Section 180202 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 180202 of the Public Utilities Code is amended to read:

180202. The authority, in the ordinance, shall state the nature of the tax to be imposed, shall provide the tax rate or the maximum tax rate, shall specify the period during which the tax will be imposed, and shall specify the purposes for which the revenue derived from the tax will be used. The tax rate may be in ¼ percent increments and shall not exceed a maximum tax rate of 1 percent.

The proposition shall include an appropriations limit for that entity pursuant to Section 4 of Article XIII B of the California Constitution.

CHAPTER 319

An act to amend Section 203 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), relating to the Monterey Peninsula Water Management District.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 203 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 203. Five members shall be elected by the qualified electors in the district. One member shall be a member of the board of supervisors of the county residing in the district, appointed by the board of supervisors, serving at the pleasure of the board of supervisors, and serving ex officio. One member shall be the mayor of a city which is a member unit who shall be appointed by those members of the city selection committee of the county representing

member units pursuant to the provisions of Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, serving at the pleasure of the appointing power, and serving ex officio.

CHAPTER 320

An act to amend Section 308 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990.]

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

SECTION 1. 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 his or her foster family 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 or his or her foster family would be endangered by the disclosure of the minor's 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 and reasonable effort to ensure regular telephone contact between the parent and a child of any age, prior to the detention hearing, unless that contact would be detrimental to the child. The initial telephone contact shall take place as soon as practicable, but no later than five hours after the child is taken into custody. 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.

CHAPTER 321

An act to amend Section 7028.15 of the Business and Professions Code, and to add Section 20104 to the Public Contract Code, relating to contractors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 7028.15 of the Business and Professions Code is amended to read:

7028.15. (a) It is a misdemeanor for any person to submit a bid to a public agency in order to engage in the business or act in the capacity of a contractor within this state without having a license therefor, except in any of the following cases:

(1) The person is particularly exempted from this chapter.

(2) The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local agency project governed by Section 20104 of the Public Contract Code.

(b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars ($4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his or her individual licensure.

(d) This section shall not affect the right or ability of a licensed architect or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their

respective practices.

(e) Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a bid, verify that the contractor was properly licensed when the contractor submitted the bid.

(f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.

SEC. 2. Section 20104 is added to the Public Contract Code, to read:

20104. In all contracts subject to this part where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the agency that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board. The agency shall include a statement to that effect in the standard form of prequalification questionnaire and financial statement. Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to 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 avoid the continued disruption of the process of bidding

for public works contracts, it is necessary for this act to take effect immediately.

CHAPTER 322

An act to amend Section 5536 of the Public Resources Code, relating to regional park, park and open-space, and open-space districts.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 5536 of the Public Resources Code is amended to read:

5536. (a) The board shall establish rules for its proceedings.

(b) The board may provide, by ordinance or resolution, that each of its members may receive an amount not to exceed one hundred dollars ($100) per day for each attendance at a meeting of the board. For purposes of this section, a meeting of the board includes, but is not limited to, closed sessions of the board, board field trips, district public hearings, or meetings of a committee of the board. The maximum compensation allowable to a board member on any given day shall be one hundred dollars ($100). Board members shall not receive any other compensation for meetings, and no board member shall receive more than five hundred dollars ($500) compensation under this section in any one calendar month, except that board members of the East Bay Regional Park District may receive compensation for not more than 10 meetings in any one calendar month. A board member may elect to waive the per diem. In addition, the board may provide, by ordinance or resolution, that each of its members not otherwise eligible for an employer-paid or partially employer-paid group medical or group dental plan, or both, may participate in any of those plans available to permanent employees of the district on the same terms available to those district employees or on terms and conditions as the board may determine. A board member who elects to participate in any plan may also elect to have the premium for the plan charged against his or her per diem and may further elect to waive the balance of the per diem.

(c) All vacancies on the board shall be filled in accordance with the requirements of Section 1780 of the Government Code, except that, in the case of vacancies caused by the creation of new wards or subdistricts, the directors shall, prior to the vacancies being filled, determine by lot, for the purpose of fixing the terms of the first directors to be elected to the wards or subdistricts, which ward or subdistrict shall have a four-year term and which ward or subdistrict shall have a two-year term. The persons who fill the vacancies caused

by the establishment of new wards or subdistricts shall hold office until the next general election and until their successors are elected and qualified for the terms previously determined by lot.

CHAPTER 323

An act to amend Sections 25212, 25213, 25232, and 25232.1 of the Corporations Code, relating to securities.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 25212 of the Corporations Code is amended to read:

25212. The commissioner may, after appropriate notice and opportunity for hearing, by order censure, deny a certificate to, suspend for a period not exceeding 12 months or revoke the certificate of, any broker-dealer if the commissioner finds that the censure, denial, suspension, or revocation is in the public interest and that the broker-dealer, whether prior or subsequent to becoming a broker-dealer, or any partner, officer, director, or branch manager of the broker-dealer, whether prior or subsequent to becoming associated with the broker-dealer, or any person directly or indirectly controlling the broker-dealer, whether prior or subsequent to becoming such, or any agent employed by the broker-dealer while so employed has done any of the following:

(a) Has willfully made or caused to be made in any application for a certificate or in any report required to be filed with the commissioner under this law, or in any proceeding before the commissioner, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has willfully omitted to state in the application or report any material fact which is required to be stated therein.

(b) Has been either (1) convicted of or has pled nolo contendere to a felony or misdemeanor, or (2) held liable in a civil action by final judgment of a court based upon conduct showing moral turpitude, and the commissioner finds that the felony, misdemeanor, or civil action (A) involved the purchase or sale of any security, (B) arose out of the conduct of the business of a broker-dealer or investment adviser, (C) involved theft, or (D) involved the violation of Section 1341, 1342 or 1343 of Title 18 of the United States Code.

(c) Is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, or broker-dealer, or as an affiliated person or employee of any investment company, bank, or insurance

company, or from engaging in or continuing any conduct or practice in connection with that activity or in connection with the purchase or sale of any security.

(d) Is subject to any currently effective order of the Securities and Exchange Commission or the securities administrator of any other state denying registration to or revoking or suspending the registration of the person as a broker, dealer, agent, or investment adviser or is subject to any currently effective order of any national securities association or national securities exchange (as defined in the Securities Exchange Act of 1934) suspending or expelling that person from membership in the association or exchange or from association with any member thereof.

(e) Has willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or Title 4 (commencing with Section 25000) of this code, including the Franchise Investment Law, Division 5 (commencing with Section 31000), or of any rule or regulation under any of those statutes.

(f) Is subject to any currently effective order of the Commodity Futures Trading Commission denying registration to, or revoking or suspending the registration of, that person under the Commodity Exchange Act or is subject to any currently effective order of any board of trade or commodity exchange including, but not limited to, the New York Mercantile Exchange, the Chicago Mercantile Exchange, the Chicago Board of Trade, or the Chicago Board Options Exchange, suspending or expelling that person from membership in the board of trade or commodity exchange or from association with any member thereof.

(g) Has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any of the statutes or rules or regulations referred to in subdivision (e) above, or has failed reasonably to supervise, with a view to preventing violations of those statutes, rules and regulations, another person who commits a violation, if the other person is subject to his or her supervision; for the purposes of this subdivision, no person shall be deemed to have failed reasonably to supervise any person if (1) there have been established procedures, and a system for applying those procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any violation by the other person, and (2) that person has reasonably discharged the duties and obligations incumbent upon him or her by reason of those procedures and system without reasonable cause to believe that those procedures and system were not being complied with.

(h) Is subject to any currently effective order of the commissioner entered pursuant to Section 25213 revoking or suspending the certificate of the person as an agent.

SEC. 2. Section 25213 of the Corporations Code is amended to read:

25213. The commissioner may, after appropriate notice and

opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or bar from any position of employment, management or control of any broker-dealer or investment adviser, any officer, director, partner, agent, employee of, or person performing similar functions for, a broker-dealer, if the commissioner finds that such censure, suspension or bar is in the public interest and that such person has committed any act or omission enumerated in subdivision (a), (e), (f), or (g) of Section 25212 or has been convicted of, or pled nolo contendere to, any offense or been held liable in any civil action specified in subdivision (b) of Section 25212, or is enjoined from any act, conduct or practice specified in subdivision (c) of Section 25212 or is subject to any order specified in subdivision (d) of Section 25212.

SEC. 3. Section 25232 of the Corporations Code is amended to read:

25232. The commissioner may, after appropriate notice and opportunity for hearing, by order censure, deny a certificate to, or suspend for a period not exceeding 12 months or revoke the certificate of, an investment adviser, if the commissioner finds that the censure, denial, suspension, or revocation is in the public interest and that the investment adviser, whether prior or subsequent to becoming such, or any partner, officer or director thereof or any person performing similar functions or any person directly or indirectly controlling the investment adviser, whether prior or subsequent to becoming such, or any employee of the investment adviser while so employed:

(a) Has willfully made or caused to be made in any application for a certificate or any report filed with the commissioner under this division, or in any proceeding before the commissioner, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has willfully omitted to state in the application or report any material fact which is required to be stated therein; or

(b) Has been either (1) convicted of or has pled nolo contendere to any felony or misdemeanor, or (2) held liable in a civil action by final judgment of a court based upon conduct showing moral turpitude, and the commissioner finds that the felony, misdemeanor or civil action (i) involved the purchase or sale of any security, (ii) arose out of the conduct of the business of a broker-dealer or investment adviser, (iii) involved theft, or (iv) involved the violation of Section 1341, 1342 or 1343 of Title 18 of the United States Code; or

(c) Is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter or broker-dealer or as an affiliated person or employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with that activity, or in connection with the purchase or sale of any security; or

(d) Is subject to any currently effective order of the Securities and

Exchange Commission or the securities administrator of any other state revoking or suspending his or her registration as an investment adviser, or investment adviser representatives, or as a broker or dealer or agent, or is subject to any currently effective order of any national securities association or national securities exchange (as defined in the Securities Exchange Act of 1934) suspending or expelling him or her from membership in that association or exchange; or

(e) Has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or Title 4 (commencing with Section 25000) of this code, or of any rule or regulation under those statutes; or

(f) Is subject to any currently effective order of the Commodity Futures Trading Commission denying registration to, or revoking or suspending the registration of, that person under the Commodity Exchange Act or is subject to any currently effective order of any board of trade or commodity exchange, including, but not limited to, the New York Mercantile Exchange, the Chicago Mercantile Exchange, the Chicago Board of Trade, or the Chicago Board Options Exchange, suspending or expelling that person from membership in the board of trade or commodity exchange or from association with any member thereof.

(g) Has aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any statute or rule or regulation referred to in subdivision (e).

SEC. 4. Section 25232.1 of the Corporations Code is amended to read:

25232.1. The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or bar from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser, any officer, director, partner, employee of, or person performing similar functions for, a licensed investment adviser, if he or she finds that such censure, suspension or bar is in the public interest and that such person has committed any act or omission enumerated in subdivision (a), (e), (f), or (g) of Section 25232 or has been convicted of any offense or held liable in any civil action specified in subdivision (b) of Section 25232 or is enjoined from any act, conduct or practice specified in subdivision (c) of Section 25232 or is subject to any order specified in subdivision (d) of Section 25232.

CHAPTER 324

An act to amend and repeal Section 7663 of the Probate Code, and to amend Section 40 of Chapter 397 of the Statutes of 1989, relating to probate law and procedure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 7663 of the Probate Code is amended to read:

7663. (a) After payment of debts pursuant to Section 7662, but in no case before four months after court authorization of the public administrator to act under this article or after the public administrator takes possession or control of the estate, the public administrator shall distribute to the decedent's beneficiaries any money or other property of the decedent remaining in the possession of the public administrator.

(b) If there are no beneficiaries, the public administrator shall deposit the balance with the county treasurer for use in the general fund of the county, subject to Article 3 (commencing with Section 50050) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. If the amount deposited exceeds ten thousand dollars ($10,000), the public administrator shall at the time of the deposit give the Controller written notice of the information specified in Section 1311 of the Code of Civil Procedure .

NOTE: See Stats. 1990, Ch. 79 for SEC. 2.

SEC. 3. Section 40 of Chapter 397 of the Statutes of 1989 is amended to read:

Sec. 40. (a) A financial institution (as defined in Section 5128 of

the Probate Code) has no duty to inform any of the following persons of the enactment of Chapter 397 of the Statutes of 1989:

(1) Any depositor holding an account on July 1, 1990.

(2) Any beneficiary named in a Totten trust account on July 1, 1990.

(3) Any P.O.D. payee designated on a P.O.D. account on July 1, 1990.

(4) Any agent designated on an agency account on July 1, 1990.

(b) No liability may be imposed on a financial institution for failing to inform any person designated in subdivision (a) of the enactment of this act.

SEC. 4. Section 2 of this act shall become operative only if Assembly Bill 759 of the 1989–90 Regular Session is enacted and becomes operative on July 1, 1991, and enacts Section 7663 of the Probate Code, and this bill is enacted after Assembly Bill 759, in which case Section 2 of this act shall become operative on July 1, 1991, and Section 7663 as amended by Section 1 of this act shall be repealed on that date.

SEC. 5. Section 3 of this act shall become operative on July 1, 1990.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Section 7663 of the Probate Code was enacted by Chapter 1199 of the Statutes of 1988, operative July 1, 1989, but the enactment did not provide a procedure for administering funds deposited under the section. Immediate provision of a procedure is necessary to resolve the confusion among county treasurers, claimants, and other interested persons as to disposition of the funds.

Section 40 of Chapter 397 of the Statutes of 1989 was enacted with an incorrect reference to the operative date of the chapter. It is necessary, in order to give the protection intended by the section, that a correct reference to the operative date be made before any unintended liability is imposed.

CHAPTER 325

An act to add and repeal Sections 875.1 and 878.1 of the Fish and Game Code, relating to fish and game.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 875.1 is added to the Fish and Game Code, to read:

875.1. The board of supervisors of Los Angeles County may appoint not more than three persons employed by the county as ocean lifeguards to serve as reserve fish and game wardens of the county for not more than four months from the date of their appointment.

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. 2. Section 878.1 is added to the Fish and Game Code, to read:

878.1. (a) The county reserve fish and game wardens appointed pursuant to Section 875.1 shall enforce the laws relating to the protection of fish and game.

(b) Notwithstanding any other provision of this code or the Penal Code, the county reserve fish and game wardens have the powers and authority conferred by law on peace officers listed in Section 830.6 of the Penal Code under the following circumstances:

(1) The warden has been appointed pursuant to Section 875.1.

(2) The warden is serving under the immediate supervision of a deputy of the department.

(3) The warden possesses a current small boat operator's license.

(4) The warden has been granted a certificate from an accredited reserve peace officer academy, certifying that he or she has passed a classroom course required by Section 832.6 of the Penal Code for level one reserve peace officers.

(5) The warden has passed a background investigation conducted by the county sheriff for applicants for the position of deputy sheriff.

(6) The warden is paid entirely with county funds and not from the proceeds of any fines or forfeitures collected incident to the enforcement of the Fish and Game Code.

(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.

CHAPTER 326

An act to amend Section 2081 of the Insurance Code, relating to insurance.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 2081 of the Insurance Code is amended to read:

2081. Whenever a clause is inserted, or rider attached, affecting the standard form liability of the insurer for loss or damage by fire occasioned either directly or indirectly by hurricane, volcanic action or other disturbance of nature, the clause or rider shall be printed in red ink in type larger than small pica and at the head of the policy there shall be printed in red ink and in large bold-faced type the words, "This policy contains limitations of liability not permitted in the California standard form."

Nothing in this section exempts an insurer from, or permits an insurer to limit, its liability or obligation under a fire insurance policy or earthquake policy or endorsement to cover the losses from a fire that is caused by, or follows, an earthquake.

CHAPTER 327

An act to amend Section 2872 of the Public Utilities Code, relating to automatic dialing devices.

[Approved by Governor July 16, 1990 Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 2872 of the Public Utilities Code is amended to read:

2872. (a) The connection of automatic dialing-announcing devices to a telephone line is subject to this article and to the jurisdiction, control, and regulation of the commission.

(b) No person shall operate an automatic dialing-announcing device except in accordance with this article. The use of such a device by any person, either individually or acting as an officer, agent, or employee of a person or corporation operating automatic dialing-announcing devices, is subject to this article.

(c) No person shall operate an automatic dialing-announcing device in this state to place a call which is received by a telephone in this state during the hours between 9 p.m. and 9 a.m. California

time.

(d) This article does not prohibit the use of an automatic dialing-announcing device by any person exclusively on behalf of any of the following:

(1) A school for purposes of contacting parents or guardians of pupils regarding attendance.

(2) An exempt organization under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code) for purposes of contacting its members.

(3) A privately owned or publicly owned cable television system for purposes of contacting customers or subscribers regarding the previously arranged installation of facilities on the premises of the customer or subscriber.

(4) A privately owned or publicly owned public utility for purposes of contacting customers or subscribers regarding the previously arranged installation of facilities on the premises of the customer or subscriber or for purposes of contacting employees for emergency actions or repairs required for public safety or to restore services.

(5) A petroleum refinery, chemical processing plant, or nuclear powerplant for purposes of advising residents, public service agencies, and the news media in its vicinity of an actual or potential life-threatening emergency.

(e) This article does not prohibit law enforcement agencies and fire protection agencies from placing calls through automatic dialing-announcing devices, if those devices are used for any of the following purposes:

(1) Providing public service information relating to public safety.

(2) Providing information concerning police or fire emergencies.

(3) Providing warnings of impending or threatened emergencies.

Telephone calls placed by law enforcement agencies and fire protection agencies through automatic dialing-announcing devices need not comply with Section 2874.

(f) This article does not apply to any automatic dialing-answering device which is not used to randomly or sequentially dial telephone numbers but which is used solely to transmit a message to an established business associate, customer, or other person having an established relationship with the person using the automatic dialing-answering device to transmit the message, or to any call generated at the request of the recipient.

(g) The commission may determine any question of fact arising under this section.

CHAPTER 328

An act to add Section 18023.1 to the Financial Code, relating to industrial loan companies.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 17, 1990.]

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

SECTION 1. Section 18023.1 is added to the Financial Code, to read:

18023.1. In addition to the borrowings under Section 18023, an industrial loan company may borrow funds from the Federal Home Loan Bank, which borrowed funds shall not be included in the borrowing limitations contained in Section 18023.

CHAPTER 329

An act to add Section 65852.6 to the Government Code, relating to birds.

[Approved by Governor July 17, 1990. Filed with Secretary of State July 17, 1990]

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

SECTION 1. Section 65852.6 is added to the Government Code, to read:

65852.6. (a) It is the policy of the state to permit breeding and the maintaining of homing pigeons consistent with the preservation of public health and safety.

(b) For purposes of this section a "homing pigeon," sometimes referred to as a racing pigeon is a bird of the order Columbae. It does not fall in the category of "fowl" which includes chickens, turkeys, ducks, geese and other domesticated birds other than pigeons.

CHAPTER 330

An act to amend Section 7078 of the Government Code, and to amend Sections 17052.13, 17053.8, 17053.11, 17276.2, 23612, 23622, 23623, and 24416.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 7078 of the Government Code is amended to read:

7078. The department shall submit a report to the Legislature no later than March 20, 1987, and every five years thereafter, which evaluates the effect of the program on employment, investment, and incomes, and on state and local tax revenues in designated enterprise zones. The Franchise Tax Board shall make available to the department and the Legislature aggregate information on the dollar value of enterprise zone tax credits that are claimed each year by businesses.

SEC. 2. 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, modified for purposes of this section as follows:

(1) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The program area" shall be substituted for "this state."

(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, modified for purposes of this section as follows:

(1) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The enterprise zone" shall be substituted for "this state."

SEC. 3. 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 the first year of

employment.

(2) Forty percent for qualified wages in the second year of employment.

(3) Thirty percent for qualified wages in the third year of employment.

(4) Twenty percent for qualified wages in the fourth year of employment.

(5) Ten percent for qualified wages in the fifth year of employment.

(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—

(1) 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

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) 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, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(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, modified for purposes of this section as follows:

(1) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The enterprise zone" shall be substituted for "this state."

SEC. 4. Section 17053.11 of the Revenue and Taxation Code is amended to read:

17053.11. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) for the taxable year the amount determined in subdivisions (c) and (d) for a qualified business which hires a qualified employee.

(b) For purposes of this section:

(1) "Qualified business" means 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 an amount equal to the sum of each of the following:

(1) Fifty percent for qualified wages in the first year of employment.

(2) Forty percent for qualified wages in the second year of employment.

(3) Thirty percent for qualified wages in the third year of

employment.

(4) Twenty percent for qualified wages in the fourth year of employment.

(5) Ten percent for qualified wages in the fifth 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 25 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 (2) of subdivision (c), the credit for the third year of employment shall be that provided in paragraph (3) of subdivision (c), the credit for the fourth year of employment shall be that provided in paragraph (4) of subdivision (c), and the credit for the fifth year of employment shall be that provided in paragraph (5) 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) or (d) 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 other than regularly occurring seasonal reductions.

(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 of an estate or trust—

(1) 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

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(h) 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, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(i) 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.

(j) 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, modified for purposes of this section as follows:

(1) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The program area" shall be substituted for "this state."

SEC. 5. Section 17276.2 of the Revenue and Taxation Code is amended to read:

17276.2. The term "qualified taxpayer" as used in Section 17276.1 means either of the following:

(a) A taxpayer engaged in the conduct of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government

Code). That attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(i) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, loss shall be apportioned to the program area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The program area" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(i) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The program area" shall be substituted for "this state."

(b) A taxpayer who is engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following taxable year that ends before the expiration or revocation of the designation of the enterprise zone under Section 7073 of the Government Code or to each of 15 taxable years following the taxable year of loss, if longer.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(i) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The enterprise zone" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the

Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(i) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The enterprise zone" shall be substituted for "this state."

(c) A taxpayer who qualifies as a "qualified taxpayer" shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account subdivision (d).

(d) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which subdivision of this section is to apply to the taxpayer.

(e) Notwithstanding the provisions of Section 17276, the amount of the loss determined under this section shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (c) shall be included in the election under Section 17276.1.

SEC. 6. Section 23612 of the Revenue and Taxation Code is amended to read:

23612. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) 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 "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(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, modified for purposes of this section as follows:

(1) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The program area" shall be substituted for "this state."

(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, modified for purposes of this section as follows:

(1) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The enterprise zone" shall be substituted for "this state."

SEC. 7. Section 23622 of the Revenue and Taxation Code is amended to read:

23622. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to the sum of each of the following:

(1) Fifty percent for qualified wages in the first year of employment.

(2) Forty percent for qualified wages in the second year of employment.

(3) Thirty percent for qualified wages in the third year of employment.

(4) Twenty percent for qualified wages in the fourth year of employment.

(5) Ten percent for qualified wages in the fifth year of employment.

(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, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(j) In the case where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, 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 has been exhausted.

(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, modified for purposes of this section as follows:

(1) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The enterprise zone" shall be substituted for "this state."

SEC. 8. Section 23623 of the Revenue and Taxation Code is amended to read:

23623. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) 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 an amount equal to the sum of each of the following:

(1) Fifty percent for qualified wages in the first year of employment.

(2) Forty percent for qualified wages in the second year of employment.

(3) Thirty percent for qualified wages in the third year of employment.

(4) Twenty percent for qualified wages in the fourth year of employment.

(5) Ten percent for qualified wages in the fifth 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 25 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 (2) of subdivision (c), the credit for the third year of employment shall be that provided in paragraph (3) of subdivision (c), the credit for the fourth year of employment shall be that provided in paragraph (4) of subdivision (c), and the credit for the fifth year of employment shall be that provided in paragraph (5) 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) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(h) In the case where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(i) 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, modified for purposes of this section as follows:

(1) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The program area" shall be substituted for "this state."

SEC. 9. Section 24416.2 of the Revenue and Taxation Code is amended to read:

24416.2. The term "qualified taxpayer" as used in Section 24416.1 means either of the following:

(a) A taxpayer engaged in the conduct of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(1) A net operating loss shall not be a net operating loss carryback for any income year and a net operating loss for any income year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the 15 income years following the income year of loss.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). That attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, loss shall be apportioned to

the program area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The program area" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The program area" shall be substituted for "this state."

(b) A taxpayer who is engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) (A) A net operating loss shall not be a net operating loss carryback to any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following income year that ends before the expiration or revocation of the designation of the enterprise zone under Section 7073 of the Government Code or to each of 15 income years following the income year of loss, if longer.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five income years following the income year of the loss. Subdivision (b) of Section 24416.1 and Section 172(b)(1)(F) and (G) of the Internal Revenue Code shall not apply.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The enterprise zone" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The enterprise zone" shall be substituted for "this state."

(c) A taxpayer who qualifies as a "qualified taxpayer" shall, for the income year of the net operating loss and any income year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account subdivision (d).

(d) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in an income year, the taxpayer shall designate which subdivision of this section is to apply to the taxpayer.

(e) Notwithstanding the provisions of Section 24416, the amount of the loss determined under Section 24416.1 shall be the only net operating loss allowed to be carried over from that income year and the designation under subdivision (c) shall be included in the election under Section 24416.1.

SEC. 10. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 331

An act to amend Sections 2432, 2500, and 2511 of the Civil Code, relating to power of attorney.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 2432 of the Civil Code is amended to read:

2432. (a) An attorney in fact under a durable power of attorney may not make health care decisions unless all of the following requirements are satisfied:

(1) The durable power of attorney specifically authorizes the attorney in fact to make health care decisions.

(2) The durable power of attorney contains the date of its execution.

(3) The durable power of attorney is witnessed by one of the following methods:

(A) The durable power of attorney is signed by at least two witnesses each of whom witnessed either the signing of the instrument by the principal or the principal's acknowledgment of the signature or of the instrument, each witness making the following declaration in substance: "I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me to be the principal, or that the identity of the principal was proved to me by convincing evidence, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as attorney in fact by this document, and that I am not a health care provider, an employee of a health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility for the elderly, nor an employee of an operator of a residential care facility for the elderly." At least one of the witnesses must also have signed the following declaration: "I further declare under penalty of perjury under the laws of California that I am not related to the principal by blood, marriage, or adoption, and, to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law."

(B) The durable power of attorney is acknowledged before a notary public at any place within this state, the notary public certifying to the substance of the following:

State of California
County of _____ } ss.

On this _____ day of _____, in the year _____, before me, _____,
(Insert name of notary public)
personally appeared _____,
(Insert name of principal)
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence.

NOTARY SEAL _____
(Signature of Notary Public)

(b) Except as provided in Section 2432.5:

(1) Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a community care facility or residential care facility for the elderly nor an employee of an operator of a community care facility or residential care facility for the elderly, may be designated as the attorney in fact to make health care decisions under a durable power of attorney.

(2) A health care provider or employee of a health care provider may not act as an attorney in fact to make health care decisions if the health care provider becomes the principal's treating health care provider.

(c) A conservator may not be designated as the attorney in fact to make health care decisions under a durable power of attorney for health care executed by a person who is a conservatee under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, unless (1) the power of attorney is otherwise valid, (2) the conservatee is represented by legal counsel, and (3) the lawyer representing the conservatee signs a certificate stating in substance: "I am a lawyer authorized to practice law in the state where this power of attorney was executed, and the principal was my client at the time this power of attorney was executed. I have advised my client concerning his or her rights in connection with this power of attorney and the applicable law and the consequences of signing or not signing this power of attorney, and my client, after being so advised, has executed this power of attorney."

(d) None of the following may be used as a witness under subdivision (a):

(1) A health care provider.

(2) An employee of a health care provider.

(3) The attorney in fact.

(4) The operator of a community care facility.

(5) An employee of an operator of a community care facility.

(6) The operator of a residential care facility for the elderly.

(7) An employee of an operator of a residential care facility for the elderly.

(e) At least one of the persons used as a witness under subdivision (a) shall be a person who is not one of the following:

(1) A relative of the principal by blood, marriage, or adoption.

(2) A person who would be entitled to any portion of the estate of the principal upon his or her death under any will or codicil thereto of the principal existing at the time of execution of the durable power of attorney or by operation of law then existing.

(f) A durable power of attorney for health care is not effective if the principal is a patient in a skilled nursing facility as defined in subdivision (c) of Section 1250 of the Health and Safety Code at the time of its execution unless one of the witnesses is a patient advocate or ombudsman as may be designated by the State Department of Aging for this purpose pursuant to any other applicable provision of

law. The patient advocate or ombudsman shall include in the declaration required by subdivision (a) a declaration that he or she is serving as a witness as required by this subdivision. It is the intent of this subdivision to recognize that some patients in skilled nursing facilities are insulated from a voluntary decisionmaking role, by virtue of the custodial nature of their care, so as to require special assurance that they are capable of willfully and voluntarily executing a durable power of attorney for health care.

SEC. 2. Section 2500 of the Civil Code is amended to read:

2500. The use of the following form in the creation of a durable power of attorney for health care under Article 5 (commencing with Section 2430) of Chapter 2 is lawful, and when used, the power of attorney shall be construed in accordance with this chapter and shall be subject to Article 5 (commencing with Section 2430) of Chapter 2; provided, however, that the use of a form previously authorized by this section (at the time it was so authorized) remains valid.

STATUTORY FORM DURABLE POWER OF ATTORNEY FOR HEALTH CARE
(California Civil Code Section 2500)

WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT WHICH IS AUTHORIZED BY THE KEENE HEALTH CARE AGENT ACT. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT (THE ATTORNEY IN FACT) THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. YOUR AGENT MUST ACT CONSISTENTLY WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN.

EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THIS DOCUMENT GIVES YOUR AGENT THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT NECESSARY TO KEEP YOU ALIVE.

NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION AT THE TIME, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED OR WITHHELD IF YOU OBJECT AT THE TIME.

THIS DOCUMENT GIVES YOUR AGENT AUTHORITY TO CONSENT, TO REFUSE TO CONSENT, OR TO WITHDRAW CONSENT TO ANY CARE, TREATMENT, SERVICE, OR PROCEDURE TO MAINTAIN, DIAGNOSE, OR TREAT A

PHYSICAL OR MENTAL CONDITION. THIS POWER IS SUBJECT TO ANY STATEMENT OF YOUR DESIRES AND ANY LIMITATIONS THAT YOU INCLUDE IN THIS DOCUMENT. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT THAT YOU DO NOT DESIRE. IN ADDITION, A COURT CAN TAKE AWAY THE POWER OF YOUR AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU IF YOUR AGENT (1) AUTHORIZES ANYTHING THAT IS ILLEGAL, (2) ACTS CONTRARY TO YOUR KNOWN DESIRES, OR (3) WHERE YOUR DESIRES ARE NOT KNOWN, DOES ANYTHING THAT IS CLEARLY CONTRARY TO YOUR BEST INTERESTS.

UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST FOR SEVEN YEARS FROM THE DATE YOU EXECUTE AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF AT THE TIME WHEN THIS SEVEN-YEAR PERIOD ENDS, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY OF YOUR AGENT BY NOTIFYING YOUR AGENT OR YOUR TREATING DOCTOR, HOSPITAL, OR OTHER HEALTH CARE PROVIDER ORALLY OR IN WRITING OF THE REVOCATION.

YOUR AGENT HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

UNLESS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THIS DOCUMENT GIVES YOUR AGENT THE POWER AFTER YOU DIE TO (1) AUTHORIZE AN AUTOPSY, (2) DONATE YOUR BODY OR PARTS THEREOF FOR TRANSPLANT OR THERAPEUTIC OR EDUCATIONAL OR SCIENTIFIC PURPOSES, AND (3) DIRECT THE DISPOSITION OF YOUR REMAINS.

THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS FORM. THIS DOCUMENT WILL NOT BE VALID UNLESS YOU COMPLY WITH THE WITNESSING PROCEDURE.

IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

YOUR AGENT MAY NEED THIS DOCUMENT IMMEDIATELY IN CASE OF AN EMERGENCY THAT REQUIRES A DECISION CONCERNING YOUR HEALTH CARE. EITHER KEEP THIS DOCUMENT WHERE IT IS IMMEDIATELY AVAILABLE TO YOUR AGENT AND ALTERNATE AGENTS OR GIVE EACH OF THEM AN EXECUTED COPY OF THIS DOCUMENT. YOU MAY

ALSO WANT TO GIVE YOUR DOCTOR AN EXECUTED COPY OF THIS DOCUMENT.

DO NOT USE THIS FORM IF YOU ARE A CONSERVATEE UNDER THE LANTERMAN-PETRIS-SHORT ACT AND YOU WANT TO APPOINT YOUR CONSERVATOR AS YOUR AGENT. YOU CAN DO THAT ONLY IF THE APPOINTMENT DOCUMENT INCLUDES A CERTIFICATE OF YOUR ATTORNEY.

1. DESIGNATION OF HEALTH CARE AGENT. I, _____

_____

(Insert your name and address)

do hereby designate and appoint _____

_____

(Insert name, address, and telephone number of one individual only as your agent to make health care decisions for you. None of the following may be designated as your agent (1) your treating health care provider, (2) a nonrelative employee of your treating health care provider, (3) an operator of a community care facility, (4) a nonrelative employee of an operator of a community care facility, (5) an operator of a residential care facility for the elderly, or (6) a nonrelative employee of an operator of a residential care facility for the elderly.)

as my attorney in fact (agent) to make health care decisions for me as authorized in this document. For the purposes of this document, "health care decision" means consent, refusal of consent, or withdrawal of consent to any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition.

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE. By this document I intend to create a durable power of attorney for health care under Sections 2430 to 2443, inclusive, of the California Civil Code. This power of attorney is authorized by the Keene Health Care Agent Act and shall be construed in accordance with the provisions of Sections 2500 to 2506, inclusive, of the California Civil Code. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED. Subject to any limitations in this document, I hereby grant to my agent full power and authority to make health care decisions for me to the same extent that I could make such decisions for myself if I had the capacity to do so. In exercising this authority, my agent shall make health care decisions that are consistent with my desires as stated in this document or otherwise made known to my agent, including, but not limited to, my desires concerning obtaining or refusing or withdrawing life-prolonging care, treatment, services, and procedures.

(If you want to limit the authority of your agent to make health care decisions for you, you can state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") below. You can indicate your desires by including a statement of your desires in the same paragraph.)

4. STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS.

(Your agent must make health care decisions that are consistent with your known desires You can, but are not required to, state your desires in the space provided below You should consider whether you want to include a statement of your desires concerning life-prolonging care, treatment, services, and procedures You can also include a statement of your desires concerning other matters relating to your health care You can also make your desires known to your agent by discussing your desires with your agent or by some other means. If there are any types of treatment that you do not want to be used, you should state them in the space below. If you want to limit in any other way the authority given your agent by this document, you should state the limits in the space below If you do not state any limits, your agent will have broad powers to make health care decisions for you, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, my agent shall act consistently with my desires as stated below and is subject to the special provisions and limitations stated below:

(a) Statement of desires concerning life-prolonging care, treatment, services, and procedures:

_____

_____

_____

_____

_____

_____

_____

_____

(b) Additional statement of desires, special provisions, and limitations: _____

_____

_____

_____

_____

_____

_____

_____

(You may attach additional pages if you need more space to complete your statement. If you attach additional pages, you must date and sign EACH of the additional pages at the same time you date and sign this document)

5. INSPECTION AND DISCLOSURE OF INFORMATION RELATING TO MY PHYSICAL OR MENTAL HEALTH. Subject to any limitations in this document, my agent has the power and authority to do all of the following:

(a) Request, review, and receive any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records.

(b) Execute on my behalf any releases or other documents that may be required in order to obtain this information.

(c) Consent to the disclosure of this information.

(If you want to limit the authority of your agent to receive and disclose information relating to your health, you must state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") above.)

6. SIGNING DOCUMENTS, WAIVERS, AND RELEASES. Where necessary to implement the health care decisions that my agent is authorized by this document to make, my agent has the power and authority to execute on my behalf all of the following:

(a) Documents titled or purporting to be a "Refusal to Permit Treatment" and "Leaving Hospital Against Medical Advice."

(b) Any necessary waiver or release from liability required by a hospital or physician.

7. AUTOPSY; ANATOMICAL GIFTS; DISPOSITION OF REMAINS. Subject to any limitations in this document, my agent has the power and authority to do all of the following:

(a) Authorize an autopsy under Section 7113 of the Health and Safety Code.

(b) Make a disposition of a part or parts of my body under the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

(c) Direct the disposition of my remains under Section 7100 of the Health and Safety Code.

(If you want to limit the authority of your agent to consent to an autopsy, make an anatomical gift, or direct the disposition of your remains, you must state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") above.)

8. DURATION.

(Unless you specify a shorter period in the space below, this power of attorney will exist for seven years from the date you execute this document and, if you are unable to make health care decisions for yourself at the time when this seven-year period ends, the power will continue to exist until the time when you become able to make health care decisions for yourself.)

This durable power of attorney for health care expires on

_____

(Fill in this space ONLY if you want the authority of your agent to end EARLIER than the seven-year period described above.)

9. DESIGNATION OF ALTERNATE AGENTS.

(You are not required to designate any alternate agents but you may do so. Any alternate agent you designate will be able to make the same health care decisions as the agent you designated in paragraph 1, above, in the event that agent is unable or ineligible to act as your agent. If the agent you designated is your spouse, he or she becomes ineligible to act as your agent if your marriage is dissolved.)

If the person designated as my agent in paragraph 1 is not available or becomes ineligible to act as my agent to make a health care decision for me or loses the mental capacity to make health care decisions for me, or if I revoke that person's appointment or

authority to act as my agent to make health care decisions for me, then I designate and appoint the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternate Agent _____

(Insert name, address, and telephone number of first alternate agent)

B. Second Alternate Agent _____

(Insert name, address, and telephone number of second alternate agent)

10. NOMINATION OF CONSERVATOR OF PERSON.

(A conservator of the person may be appointed for you if a court decides that one should be appointed. The conservator is responsible for your physical care, which under some circumstances includes making health care decisions for you. You are not required to nominate a conservator but you may do so. The court will appoint the person you nominate unless that would be contrary to your best interests. You may, but are not required to, nominate as your conservator the same person you named in paragraph 1 as your health care agent You can nominate an individual as your conservator by completing the space below.)

If a conservator of the person is to be appointed for me, I nominate the following individual to serve as conservator of the person

(Insert name and address of person nominated as conservator of the person)

11. PRIOR DESIGNATIONS REVOKED. I revoke any prior durable power of attorney for health care.

DATE AND SIGNATURE OF PRINCIPAL

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Statutory Form Durable Power of Attorney for Health Care on _____ at
(Date)

_____, _____.
(City) (State)

_____
(You sign here)

(THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS SIGNED BY TWO QUALIFIED WITNESSES WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE IF YOU HAVE ATTACHED ANY ADDITIONAL PAGES TO THIS FORM, YOU MUST DATE AND SIGN EACH OF THE ADDITIONAL PAGES AT THE SAME TIME YOU DATE AND SIGN THIS POWER OF ATTORNEY)

STATEMENT OF WITNESSES

(This document must be witnessed by two qualified adult witnesses. None of the following may be used as a witness (1) a person you designate as your agent or alternate agent, (2) a health care provider, (3) an employee of a health care provider, (4) the operator of a community care facility, (5) an employee of an operator of a community care facility, (6) the operator of a residential care facility for the elderly, or (7) an employee of an operator of a residential care facility for the elderly. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

(READ CAREFULLY BEFORE SIGNING You can sign as a witness only if you personally know the principal or the identity of the principal is proved to you by convincing evidence.)

(To have convincing evidence of the identity of the principal, you must be presented with and reasonably rely on any one or more of the following

(1) An identification card or driver's license issued by the California Department of Motor Vehicles that is current or has been issued within five years

(2) A passport issued by the Department of State of the United States that is current or has been issued within five years

(3) Any of the following documents if the document is current or has been issued within five years and contains a photograph and description of the person named on it, is signed by the person, and bears a serial or other identifying number

(a) A passport issued by a foreign government that has been stamped by the United States Immigration and Naturalization Service

(b) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses

(c) An identification card issued by a state other than California

(d) An identification card issued by any branch of the armed forces of the United States

(4) If the principal is a patient in a skilled nursing facility, a witness who is a patient advocate or ombudsman may rely upon the representations of the administrator or staff of the skilled nursing facility, or of family members, as convincing evidence of the identity of the principal if the patient advocate or ombudsman believes that the representations provide a reasonable basis for determining the identity of the principal.)

(Other kinds of proof of identity are not allowed.)

I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as attorney in fact by this document, and that I am not a health care provider, an employee of a health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility for the elderly, nor an employee of an operator of a residential care facility for the elderly.

Signature: _____ Residence Address: _____

Print Name: _____ _____
Date: _____ _____

Signature: _____ Residence Address: _____
Print Name: _____ _____
Date: _____ _____

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION)

I further declare under penalty of perjury under the laws of California that I am not related to the principal by blood, marriage, or adoption, and, to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: _____

Signature: _____

STATEMENT OF PATIENT ADVOCATE OR OMBUDSMAN

(If you are a patient in a skilled nursing facility, one of the witnesses must be a patient advocate or ombudsman. The following statement is required only if you are a patient in a skilled nursing facility—a health care facility that provides the following basic services skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis The patient advocate or ombudsman must sign both parts of the "Statement of Witnesses" above AND must also sign the following statement)

I further declare under penalty of perjury under the laws of California that I am a patient advocate or ombudsman as designated by the State Department of Aging and that I am serving as a witness as required by subdivision (f) of Section 2432 of the Civil Code.

Signature: _____

SEC. 3. Section 2511 of the Civil Code is amended to read:

2511. For the purposes of the declaration of witnesses required by Section 2432, 2450, or 2500, "convincing evidence" means the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the person signing or acknowledging the power of attorney as principal is not the individual he or she claims to be and any one of the following:

(a) Reasonable reliance on the presentation of any one of the following, if the document is current or has been issued within five years:

(1) An identification card or driver's license issued by the California Department of Motor Vehicles.

(2) A passport issued by the Department of State of the United States.

(b) Reasonable reliance on the presentation of any one of the following, if the document is current or has been issued within five years and contains a photograph and description of the person named on it, is signed by the person, bears a serial or other identifying number, and, in the event that the document is a passport, has been stamped by the United States Immigration and Naturalization Service:

(1) A passport issued by a foreign government.

(2) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses.

(3) An identification card issued by a state other than California.

(4) An identification card issued by any branch of the armed forces of the United States.

(c) If the principal is a patient in a skilled nursing facility, a witness who is a patient advocate or ombudsman may, for the purposes of Section 2432 or 2500, rely upon the representations of the administrators or staff of the skilled nursing facility, or of family members, as convincing evidence of the identity of the principal if the patient advocate or ombudsman believes that the representations provide a reasonable basis for determining the identity of the principal.

SEC. 3.5. Section 2511 of the Civil Code is amended to read:

2511. For the purposes of the declaration of witnesses required by Section 2432 or 2500, "convincing evidence" means the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the person signing or acknowledging the power of attorney as principal is not the individual he or she claims to be and any one of the following:

(a) Reasonable reliance on the presentation of any one of the following, if the document is current or has been issued within five years:

(1) An identification card or driver's license issued by the California Department of Motor Vehicles.

(2) A passport issued by the Department of State of the United States.

(b) Reasonable reliance on the presentation of any one of the following, if the document is current or has been issued within five years and contains a photograph and description of the person named on it, is signed by the person, bears a serial or other identifying number, and, in the event that the document is a passport, has been stamped by the United States Immigration and Naturalization Service:

(1) A passport issued by a foreign government.

(2) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses.

(3) An identification card issued by a state other than California.

(4) An identification card issued by any branch of the armed

forces of the United States.

(c) If the principal is a patient in a skilled nursing facility, a witness who is a patient advocate or ombudsman may, for the purposes of Section 2432 or 2500, rely upon the representations of the administrators or staff of the skilled nursing facility, or of family members, as convincing evidence of the identity of the principal if the patient advocate or ombudsman believes that the representations provide a reasonable basis for determining the identity of the principal.

SEC. 4. Section 3.5 of this bill incorporates amendments to Section 2511 of the Civil Code proposed by both this bill and SB 1777. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1991, (2) each bill amends Section 2511 of the Civil Code, and (3) this bill is enacted after SB 1777, in which case Section 3 of this bill shall not become operative.

CHAPTER 332

An act to amend Sections 809.3 and 809.5 of the Business and Professions Code, relating to healing arts.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 809.3 of the Business and Professions Code is amended to read:

809.3. (a) During a hearing concerning a final proposed action for which reporting is required to be filed under Section 805, both parties shall have all of the following rights:

(1) To be provided with all of the information made available to the trier of fact.

(2) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the preparation thereof.

(3) To call, examine, and cross-examine witnesses.

(4) To present and rebut evidence determined by the arbitrator or presiding officer to be relevant.

(5) To submit a written statement at the close of the hearing.

(b) The burden of presenting evidence and proof during the hearing shall be as follows:

(1) The peer review body shall have the initial duty to present evidence which supports the charge or recommended action.

(2) Initial applicants shall bear the burden of persuading the trier of fact by a preponderance of the evidence of their qualifications by producing information which allows for adequate evaluation and resolution of reasonable doubts concerning their current

qualifications for staff privileges, membership, or employment. Initial applicants shall not be permitted to introduce information not produced upon request of the peer review body during the application process, unless the initial applicant establishes that the information could not have been produced previously in the exercise of reasonable diligence.

(3) Except as provided above for initial applicants, the peer review body shall bear the burden of persuading the trier of fact by a preponderance of the evidence that the action or recommendation is reasonable and warranted.

(c) The peer review body shall adopt written provisions governing whether a licentiate shall have the option of being represented by an attorney at the licentiate's expense. No peer review body shall be represented by an attorney if the licentiate is not so represented, except dental professional society peer review bodies may be represented by an attorney provided that the peer review body grants each licentiate the option of being represented by an attorney at the licentiate's expense, even if the licentiate declines to be represented by an attorney.

SEC. 2. Section 809.5 of the Business and Professions Code is amended to read:

809.5. (a) Notwithstanding Sections 809 to 809.4, inclusive, a peer review body may immediately suspend or restrict clinical privileges of a licentiate where the failure to take that action may result in an imminent danger to the health of any individual, provided that the licentiate is subsequently provided with the notice and hearing rights set forth in Sections 809.1 to 809.4, inclusive, or, with respect to organizations specified in Section 809.7, with the rights specified in that section.

(b) When no person authorized by the peer review body is available to summarily suspend or restrict clinical privileges under circumstances specified in subdivision (a), the governing body of an acute care hospital, or its designee, may immediately suspend a licentiate's clinical privileges if a failure to summarily suspend those privileges is likely to result in an imminent danger to the health of any individual, provided the governing body of the acute care hospital has, before the suspension, made reasonable attempts to contact the peer review body. A suspension by the governing body of an acute care hospital which has not been ratified by the peer review body within two working days, excluding weekends and holidays, after the suspension shall terminate automatically.

CHAPTER 333

An act to amend Sections 13510, 13522, and 13525 of, and to add Section 13519.5 to, the Penal Code, relating to public safety.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 18, 1990]

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

SECTION 1. Section 13510 of the Penal Code is amended to read:

13510. (a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness, which shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals of a municipal court, reserve officers as defined in subdivision (a) of Section 830.6, policemen of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office as defined in Section 830.1 who conduct criminal investigations, or peace officer members of a district, in any city, county, city and county, or district receiving state aid pursuant to this chapter, and shall adopt, and may, from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals of a municipal court, reserve officers as defined in subdivision (a) of Section 830.6, policemen of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office as defined in Section 830.1 who conduct criminal investigations, and peace officer members of a district which shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1, of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards, to include vision, hearing, physical ability, and emotional stability. Job-related standards which are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of

related research into job-related selection standards.

(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility for providing dispatching services for local law enforcement agencies described in subdivision (a), which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. These standards shall also apply to consolidated dispatch centers operated by an independent public joint powers agency established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when providing dispatch services to the law enforcement personnel listed in subdivision (a). Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this section, "primary responsibility" refers to the performance of law enforcement dispatching duties for a minimum of 50 percent of the time worked within a pay period.

(d) Nothing in this section shall prohibit a local agency from establishing selection and training standards which exceed the minimum standards established by the commission.

SEC. 2. Section 13519.5 is added to the Penal Code, to read:

13519.5. The commission shall, on or before July 1, 1991, implement a course or courses of instruction to provide ongoing training to the appropriate peace officers on methods of gang and drug law enforcement.

SEC. 3. Section 13522 of the Penal Code is amended to read:

13522. Any city, county, city and county, or district which desires to receive state aid pursuant to this chapter shall make application to the commission for the aid. The initial application shall be accompanied by a certified copy of an ordinance, or in the case of the University of California, the California State University, and agencies not authorized to act by ordinance, by a resolution, adopted by its governing body providing that while receiving any state aid pursuant to this chapter, the city, county, city and county, or district will adhere to the standards for recruitment and training established by the commission. The application shall contain any information the commission may request.

SEC. 4. Section 13525 of the Penal Code is amended to read:

13525. Any city, county, city and county, district, or joint powers agency which desires to receive state aid pursuant to this chapter for the training of regularly employed and paid local public safety dispatchers, as described in subdivision (c) of Section 13510, shall include that request for aid in its application to the commission pursuant to Sections 13522 and 13523.

CHAPTER 334

An act to amend Section 4998.3 of the Business and Professions Code, relating to clinical social workers.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 4998.3 of the Business and Professions Code is amended to read:

4998.3. Notwithstanding Section 4996, the name of a licensed clinical social workers corporation and any name or names under which it may be rendering professional services shall contain the words "licensed clinical social workers" and wording or abbreviations denoting corporate existence.

A licensed clinical social workers corporation that conducts business under a fictitious business name shall not use any name which is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, that the business is conducted by a licensed clinical social workers corporation.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 335

An act to repeal Sections 1190, 1190a, 1190.1, 1191, and 1192 of, and to repeal and add Section 1189 of, the Civil Code, relating to acknowledgement of instruments.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990]

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

SECTION 1. Section 1189 of the Civil Code is repealed.

SEC. 2. Section 1189 is added to the Civil Code, to read:

1189. (a) Any certificate of acknowledgment taken within this state shall be in substantially the following form:

State of California }
County of _____ }

On _____ before me, a notary public in and for said state, personally appeared _____

_____,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he or she executed the same in the capacity(ies) indicated at the signature point:

WITNESS my hand and official seal.

Signature _____ (Seal)

Capacity of Signatory _____

(b) Any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the laws of the place where the acknowledgment is made.

SEC. 3. Section 1190 of the Civil Code is repealed.

SEC. 4. Section 1190.1 of the Civil Code is repealed.

SEC. 5. Section 1190a of the Civil Code is repealed.

SEC. 6. Section 1191 of the Civil Code is repealed.

SEC. 7. Section 1192 of the Civil Code is repealed.

CHAPTER 336

An act to add Section 17511.12 to the Business and Professions Code, relating to telephone solicitations.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 17511.12 is added to the Business and Professions Code, to read:

17511.12. (a) Every telephonic seller shall maintain a bond issued by a surety company admitted to do business in this state. The bond shall be in the amount of fifty thousand dollars ($50,000) in favor of the State of California for the benefit of any person suffering injury or loss by reason of any violation of this chapter to be paid under the terms of any order of a court of competent jurisdiction

obtained by the Attorney General, district attorney, or city attorney as a result of any violation of this chapter. A copy of the bond shall be filed with the Consumer Law Section of the Department of Justice. This bond shall not be required of any cable television operator franchised or licensed pursuant to Section 53066 of the Government Code.

(b) At least 10 days prior to the inception of any promotion offering a premium with an actual market value or advertised value of five hundred dollars ($500) or more, the telephonic seller shall notify the Attorney General in writing of the details of the promotion, describing the premium, and its current market value, the value at which it is advertised or held out to the customer, the date the premium shall be awarded, and the conditions under which the award shall be made. The telephonic seller shall maintain an additional bond for the total current market value or advertised value, whichever is greater, of the premiums held out or advertised to be available to a purchaser or recipient. A copy of the bond shall be filed with the Consumer Law Section of the Department of Justice. The bond, or portion thereof necessary to cover the cost of the award, shall be forfeited if the premium is not awarded to a bona fide customer within 30 days of the date disclosed as the time of award or the time otherwise required by law. The proceeds of the bond shall be paid to any person suffering injury or loss by reason of any violation of this chapter, or shall be paid pursuant to the terms of any order of a court of competent jurisdiction obtained by the Attorney General, district attorney, or city attorney as a result of any violation of this chapter. The bond shall be maintained until the seller files with the Attorney General proof that the premium was awarded.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 337

An act to amend Sections 10500 and 22852 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990]

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

SECTION 1. Section 10500 of the Vehicle Code is amended to read:

10500. (a) Every peace officer, upon receiving a report based on reliable information that any vehicle registered under this code has been stolen, taken, or driven in violation of Section 10851, or that license plates for any vehicle have been lost or stolen, shall, immediately after receiving that information, report the information to the Department of Justice Stolen Vehicle System. An officer, upon receiving information of the recovery of any vehicle which has been previously reported as stolen, taken, or driven in violation of Section 10851, or of the recovery of plates which have been previously reported as lost or stolen, shall immediately report the fact of the recovery to the Department of Justice Stolen Vehicle System. At the same time, the recovering officer shall advise the Department of Justice Stolen Vehicle System and the original reporting police agency of the location and condition of the vehicle or license plates recovered. The original reporting police agency, upon receipt of the information from the recovering officer, shall, within 48 hours, excluding weekends and holidays, notify the reporting party of the location and condition of the recovered vehicle.

(b) If the recovered vehicle is subject to parking or storage charges, Section 10652.5 applies.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 338

An act to amend Sections 12500, 12503, 12505, 12506, and 12510 of, and to repeal Sections 12510.5 and 12510.6 of, the Business and Professions Code, relating to weights and measures.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 12500 of the Business and Professions Code is amended to read:

12500. As used in this chapter the following terms mean:

(a) "Weighing instrument" means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining weight and includes any tool, appliance, or accessory used or connected therewith.

(b) "Measuring instrument" means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining measure and includes any tool, appliance, or accessory used or connected therewith.

(c) "Correct" means any weight or measure or weighing, measuring, or counting instrument which meet all of the tolerance and specification requirements established by the director pursuant to Section 12107.

(d) "Incorrect" means any instrument which fails to meet all of the requirements of Section 12107.

(e) "Commercial purposes" include the determination of the weight, measure, or count of any commodity or thing which is sold on the basis of weight, measure, or count; or the determination of the weight, measure, or count of any commodity or thing upon which determination a charge for service is based. Devices used in a determination upon which a charge for service is based include, but are not limited to, taximeters, odometers, timing devices, parcel scales, shipping scales, and scales used in the payment of agricultural workers.

"Commercial purposes" do not include the determination of the weight, measure, or count of any commodity or thing which is performed within a plant or business as a part of the manufacturing, processing, or preparing for market of that commodity or thing, or the determination of charges for the transmission of letters or parcels of less than 150 pounds, except when that determination is made in the presence of the customer charged for the service.

SEC. 2. Section 12503 of the Business and Professions Code is amended to read:

12503. Upon a written request of any resident of a county, there appearing reasonable ground therefor, the sealer shall test or cause to be tested, as soon thereafter as is practicable, the weights,

measures, or weighing or measuring instruments used for commercial purposes by the person designated in that request.

SEC. 3. Section 12505 of the Business and Professions Code is amended to read:

12505. Whenever a sealer examines any weight or measure or weighing, measuring, or counting instrument used for commercial purposes, and finds it to be correct, he or she shall seal or mark the weight, measure, or instrument with an appropriate device approved by the department, placed so as to provide optimum visibility to the customer, showing that the weight, measure, or instrument was inspected and indicating the date of the inspection.

SEC. 4. Section 12506 of the Business and Professions Code is amended to read:

12506. A sealer shall condemn and seize and may destroy incorrect weights and measures and weighing and measuring instruments used for commercial purposes, which in his or her best judgment are not susceptible of repair, but any which the sealer finds susceptible of repair, he or she shall cause to be marked with a tag or other suitable device with the words "Out of order."

SEC. 5. Section 12510 of the Business and Professions Code is amended to read:

12510. (a) Any person, who by himself or herself, or through or for another, does any of the following is guilty of a misdemeanor:

(1) Uses, for commercial purposes, or retains in his or her possession an incorrect weight or measure or weighing or measuring instrument.

(2) Sells any weight or measure used for commercial purposes, or weighing or measuring instrument which has not been sealed within one year, except weighing or measuring instruments required to be assembled prior to use.

(3) Uses any condemned weight or measure or weighing or measuring instrument contrary to law.

(4) Uses, for commercial purposes, or for determining the charge for a service, any weight or measure or weighing or measuring instrument which is not kept at a fixed location, which does not bear a current or previous year's seal, and which, upon test by the sealer, is found to be incorrect, unless a written request for an inspection of the weighing or measuring instrument has been made to the county sealer. However, the use of any weight or measure or weighing or measuring instrument used by a public utility in connection with measuring gas, electricity, water, steam, or communication service subject to the jurisdiction of the Public Utilities Commission is exempt from this chapter.

(5) Sells or uses any device or instrument to be used or calculated to falsify any weight or measure.

(6) So locates or positions a weighing or measuring device used in retail trade, except as used exclusively in the preparation of packages put up in advance of sale, that its indications cannot be accurately read by the purchaser under ordinary circumstances.

(7) Uses, for commercial purposes, a weighing or measuring device designed to automatically compute price unless the computed price is a true mathematical computation of the amount times the price per unit.

(8) Willfully and knowingly uses, for commercial purposes, a measuring device designed to automatically compute price unless the indicators of quantity and the total computed price on the device has been returned to zero prior to the beginning of each delivery of that commodity or thing.

(9) Fails to deliver for test to a designated location after receipt of a written notice from a weights and measure official, any device that is ordinarily tested at a central location.

(10) Sells, rents, leases, loans, or knowingly installs an incorrect weighing or measuring instrument for commercial purposes.

(b) The possession of an incorrect weight or measure or weighing or measuring instrument or records thereof is prima facie evidence of intention to violate the law.

SEC. 6. Section 12510.5 of the Business and Professions Code is repealed.

SEC. 7. Section 12510.6 of the Business and Professions Code is repealed.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 339

An act to amend Section 2775.5 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 2775.5 of Public Utilities Code is amended to read:

2775.5. (a) If an electrical or gas corporation desires to manufacture, lease, sell, or otherwise own or control any solar energy system, it shall submit to the commission, in such form as the commission may specify, a description of the proposed program of

solar energy development which it desires to pursue. The corporation may pursue the program of solar energy development unless the commission, within 45 days after the commission has accepted the filing of the corporation's description pursuant to this subdivision, orders the corporation to obtain from the commission the authorization to do so as provided in this section. In cases where the corporation seeks to pursue a program of solar energy development with costs and expenses to be passed through to the ratepayers, the corporation may not implement the program until it receives an authorization from the commission which includes findings and a determination, pursuant to subdivision (f), that the program is in the ratepayers' interest. No such authorization shall be required for any solar energy system which is owned or controlled for experimental or demonstration purposes. As used in this subdivision, "experimental or demonstration purposes" means a limited program of installation, use, or development the sole purpose of which is to investigate the technical viability or economic cost effectiveness of a solar application.

(b) The commission shall deny the authorization sought if it finds that the proposed program will restrict competition or restrict growth in the solar energy industry or unfairly employ in a manner which would restrict competition in the market for solar energy systems any financial, marketing, distributing, or generating advantage which the corporation may exercise as a result of its authority to operate as a public utility. Before granting any such authorization, the commission shall find that the program of solar energy development proposed by the corporation will accelerate the development and use of solar energy systems in this state for the duration of the program.

(c) The commission shall suspend or terminate any authorization granted pursuant to this section whenever it finds and determines that the program of solar energy development no longer qualifies for the authorization under subdivision (b). This subdivision applies to all programs of solar energy development undertaken by a gas or electrical corporation pursuant to this section, including programs undertaken pursuant to subdivision (a) without formal authorization of the commission.

(d) As used in this section, "solar energy system" means equipment which uses solar energy to heat or cool or produce electricity and which has a useful life of at least three years. "Solar energy system" does not include an electric plant as defined by Section 217.

(e) The commission shall prescribe the form of the description required by subdivision (a) by July 1, 1990. The description of the solar energy program filed with the commission shall include, but not be limited to, a showing that the program will not restrict competition, or restrict growth in the solar energy industry, or unfairly employ any financial, marketing, distributing, or generation advantage by the corporation on behalf of the solar energy program.

(f) The costs and expenses of implementing a program of solar energy development proposed pursuant to this section shall not be passed through to the ratepayers of an electrical or gas corporation unless the commission finds and determines that it is in the ratepayers' interest to do so.

(g) An electrical or gas corporation shall file a written notice with the commission in all cases where one of its subsidiaries seeks to implement a solar energy development program. If an affiliate of an electrical or gas corporation seeks to implement a solar energy development program, the electrical or gas corporation shall notify the commission of its affiliate's actions annually, in a form prescribed by the commission. If the electrical or gas corporation intends to provide financial, marketing, or distribution assistance to any subsidiary or affiliate thereof in implementing the subsidiary's or affiliate's program of solar energy development, the electrical or gas corporation shall obtain authorization from the commission to provide that assistance. Authorization by the commission shall be given in the manner provided in subdivisions (a) and (b), and suspension or termination by the commission may be imposed in the manner provided in subdivision (c).

(h) The commission shall provide public notice of the receipt of any corporation filings submitted pursuant to this section.

CHAPTER 340

An act to add Chapter 26 (commencing with Section 22760) to Division 8 of the Business and Professions Code, relating to telephones.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990.]

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

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

(a) Cordless telephones consist of a "base" unit which connects to the public switched network and a "handset" or "remote" unit operated together as a low power communications system.

(b) In 1983, the Federal Communications Commission failed to implement rules requiring specific security measures for these units. It was then believed that marketplace forces would serve to provide adequate security devices to protect the public switched telephone network or the consumer.

(c) As a result, cordless telephones that are not equipped with security coded circuitry are causing significant interference to many telephone company services, to customers with low telephone numbers, and to the "911" emergency services telephone system.

(d) Studies by Bellcore indicate that the annual costs incurred by telephone company maintenance centers in responding to complaints arising from noncoded cordless telephones without security provisions is approximately three million four hundred thousand dollars ($3,400,000).

SEC. 2. Chapter 26 (commencing with Section 22760) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 26. TELEPHONE EQUIPMENT

22760. (a) It is unlawful to sell within this state any cordless telephone manufactured after January 1, 1992, that does not provide increased protection from unintentional line seizure and dialing, and protection from unintentional ringing.

(b) For the purposes of this section, a cordless telephone is a two-way low power communication system consisting of the following two parts connected by a radio link:

(1) A "base" unit connected to the public switched telephone network.

(2) A "handset" or "remote" unit.

(c) For the purposes of this section, a cordless telephone has increased protection from unintentional line seizure and dialing, and protection from unintentional ringing, if it does either of the following:

(1) Provides a randomly selected preset digital security code from among at least 256 possible codes and a means for the user to manually enter a new security code in the event of interference.

(2) Provides a means for automatically selecting a different code from among at least 256 possible discrete codes.

(d) This section does not apply to any cordless telephone manufactured prior to January 1, 1992, whether, after the operative date of this section, it is inspected, repaired, or refurbished and returned to the original user, provided to another user in exchange for a unit needing repair, or resold.

CHAPTER 341

An act to amend Sections 44220, 44256, 44282, and 44860 of the Education Code, relating to teacher credentials.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 18, 1990]

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

SECTION 1. Section 44220 of the Education Code is amended to read:

44220. The commission shall appoint an executive secretary, who

shall be exempt from the provisions of the State Civil Service Act, and may in its discretion remove him or her by a majority vote of all its members. He or she shall be the secretary to the commission and its chief executive officer. He or she shall receive the salary that the commission determines, and, subject to appropriation, other prerequisites that the commission determines.

Any power, duty, purpose, function, or jurisdiction that the commission may lawfully delegate is delegated to the executive secretary, unless the commission specifically has reserved the same for its own action.

SEC. 2. Section 44256 of the Education Code is amended to read:

44256. Authorization for teaching credentials shall be of four basic kinds, as defined below:

(a) "Single subject instruction" means the practice of assignment of teachers and students to specified subject matter courses, as is commonly practiced in California high schools and most California junior high schools. The holder of a single subject teaching credential or a standard secondary credential 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 9 and below shall be eligible to have that subject appear on the credential as authorization to teach the subject in departmentalized classes in grades 9 and below. 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. However, the commission, by regulation, may provide that evidence of additional competence is necessary for instruction in particular subjects, including, but not limited to, foreign languages. The commission may establish and implement alternative requirements for additional authorizations to the multiple subject credential on the basis of specialized needs.

(c) "Specialist instruction" means any specialty requiring advanced preparation or special competence including, but not limited to, reading specialist, mathematics specialist, specialist in special education, or early childhood education, and such other specialties as the commission may determine.

(d) "Designated subjects" means the practice of assignment of teachers and students to designated technical, trade, or vocational courses which courses may be part of a program of trade, technical, or vocational education.

SEC. 3. Section 44282 of the Education Code is amended to read:

44282. Subject matter examinations authorizing single-subject instruction shall be required for all subjects taught in California public schools, those subjects to be subsumed, as directed by the commission, under the following categories: English, physical science, health science, life science, mathematics, social science, history, government, industrial arts, physical education, business, music, art, home economics, agriculture, and languages, including, but not limited to, French, Spanish, Russian, German, and Chinese. The commission shall list subject matter categories.

A general subject matter examination authorizing teaching multiple subjects shall include an examination of the candidate's knowledge of the following areas: language studies, literature, mathematics, science, social studies, history, humanities, the arts, physical education, and human development.

SEC. 4. Section 44860 of the Education Code is amended to read:

44860. No person shall be employed as principal of a school of six or more certificated employees unless he or she holds a valid school administration credential and at least one of the following: a teaching credential, or a services credential with a specialization in pupil personnel, health, clinical or rehabilitative, or librarian services.

CHAPTER 342

An act to amend Section 5002.2 of the Public Resources Code, relating to the state park system.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 5002.2 of the Public Resources Code is amended to read:

5002.2. (a) Following classification or reclassification of a unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit, the department shall prepare a general plan or revise any existing plan, as the case may be, for the unit.

The general plan shall consist of elements that will evaluate and define the proposed land uses, facilities, concessions, operation of the unit, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the unit.

The general plan constitutes a report on a project for the purposes of Section 21100. The general plan for a unit shall be submitted by the department to the State Park and Recreation Commission for approval.

(b) The resource element of the general plan shall evaluate the unit as a constituent of an ecological region and as a distinct ecological entity, based upon historical and ecological research of plant-animal and soil-geological relationships and shall contain a declaration of purpose, setting forth specific long-range management objectives for the unit consistent with the unit's classification pursuant to Article 1.7 (commencing with Section 5019.50), and a declaration of resource management policy, setting forth the precise actions and limitations required for the achievement of the objectives established in the declaration of purpose.

(c) Notwithstanding the requirements of subdivision (a), the department is not required to prepare a general plan for a unit that has no general plan or to revise an existing plan, as the case may be, if the only development contemplated by the department consists of the repair, replacement, or rehabilitation of an existing facility; the construction of a temporary facility, so long as such construction does not result in the permanent commitment of a resource of the unit; any undertaking necessary for the protection of public health or safety; or any emergency measure necessary for the immediate protection of natural or cultural resources; or any combination thereof at a single unit. Any development is subject to the requirements of the California Environmental Quality Act (Division

13 (commencing with Section 21000)).

(d) Any general plan approved prior to July 1, 1972, may be used as the basis for development if the director finds that there has been no significant change in the resources of the unit since approval of the plan and that the plan is compatible with current policies governing development of the unit and the classification of the unit.

(e) Consistent with good planning and sound resource management, the department shall, in discharging its responsibilities under this section, attempt to make units of the state park system accessible and usable by the general public at the earliest opportunity.

(f) The department may prepare a general plan which includes more than one unit of the state park system for units which are in close proximity to one another and which have similar resources and recreational opportunities if that action will facilitate the protection of public resources and public access to units of the state park system.

CHAPTER 343

An act to add Section 4023.4 to the Health and Safety Code, relating to drinking water.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 18, 1990]

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

SECTION 1. Section 4023.4 is added to the Health and Safety Code, to read:

4023.4. In addition to the requirements set forth in Section 4023.3, the regulations adopted by the department pursuant to Section 4023.3 shall include requirements governing the use of point-of-entry treatment by public water systems in lieu of centralized treatment where it can be demonstrated that centralized treatment is not economically feasible.

CHAPTER 344

An act to add Section 10365.5 to the Public Contract Code, relating to state contracts.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990]

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

SECTION 1. Section 10365.5 is added to the Public Contract Code, to read:

10365.5. (a) No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.

(b) Subdivision (a) shall not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract is exempt from this section.

(c) Subdivisions (a) and (b) shall not apply to consulting services contracts subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

CHAPTER 345

An act to add Section 72247.3 to the Education Code, relating to community colleges.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 72247.3 is added to the Education Code, to read:

72247.3. Notwithstanding Sections 72247 and 72247.1, the Governing Board of the Pasadena Community College District may require payment of a parking fee at a campus in excess of the limits set forth in subdivision (a) of Section 77247 for the purpose of funding the construction of an oncampus parking structure if both of the following conditions exist at the campus:

(a) The average daily attendance (ADA) per parking space on the campus exceeds the statewide average ADA per parking space on community college campuses.

(b) The market price per square foot of land adjacent to the campus exceeds the statewide average market price per square foot of land adjacent to community college campuses.

If a governing board requires payment of a parking fee in excess of the limits set forth in subdivision (a), in no event may the fee exceed the actual cost of constructing a parking structure. Students who receive financial assistance pursuant to any of the programs described in subdivision (g) of Section 72252 shall be exempt from parking fees imposed pursuant to this section which exceed twenty dollars ($20) per semester.

SEC. 2. Because of the unique circumstances applicable in the Pasadena Community College District, which has one of the highest rates of enrollment per available parking space on campus and at the same time the cost of adjacent land is among the highest for community college districts statewide, it is impossible for the Pasadena Community College District to provide much needed parking spaces within the maximum parking fees allowed under current law. Therefore, 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 346

An act to add and repeal Section 36820 of the Government Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 18, 1990]

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

SECTION 1. Section 36820 is added to the Government Code, to read:

36820. (a) Notwithstanding Section 27333 of the Elections Code, or any other provision of law, the City of Sanger may hold a special election on November 6, 1990, to fill the vacancy in the city council created as a result of the recall of the council member acting as appointed mayor at a recall election held on June 5, 1990. The city may consolidate the special election with the November 6, 1990, statewide general election.

(b) The Legislature finds that, because of the unique circumstances applicable to the holding of a special election in the City of Sanger to fill the existing council vacancy, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution.

(c) This section shall remain in effect only until January 1, 1991, and as of that date is repealed.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable the City of Sanger to consolidate the special election to fill the vacancy in the city council with the general election, and thereby realize the resulting cost savings, it is necessary that this act take effect immediately.

CHAPTER 347

An act to repeal Section 14400 of the Business and Professions Code, relating to trade names.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 14400 of the Business and Professions Code is repealed.

CHAPTER 348

An act to amend Section 4607 of the Civil Code, relating to family law.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990]

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

SECTION 1. Section 4607 of the Civil Code is amended to read:

4607. (a) In any proceeding where there is at issue the custody of or visitation with a minor child, and where it appears on the face of the petition or other application for an order or modification of an order for the custody or visitation of a child or children that either or both such issues are contested, as provided in Section 4600, 4600.1, or 4601, the matter shall be set for mediation of the contested issues prior to or concurrent with the setting of the matter for hearing. Upon the adoption of a resolution by the board of supervisors authorizing the procedure, a petition also may be filed pursuant to this section for the mediation of a dispute relating to any existing order for custody or visitation; the mediation of a dispute concerning an existing order shall be set not later than 60 days after the filing of the petition. The purpose of the mediation proceeding shall be to reduce acrimony which may exist between the parties and to

develop an agreement, assuring the child or children close and continuing contact with both parents that is in the best interests of the child or children. The mediator shall use his or her best efforts to effect a settlement of the custody or visitation dispute that is in the best interests of the child or children, consistent with the considerations required by Section 4608. Mediation shall not be denied to the parties on the basis that paternity is an issue in a proceeding before the court.

(b) Each superior court shall make available a mediator. The mediator may be a member of the professional staff of a family conciliation court, probation department, or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court shall not be required to institute a family conciliation court. The mediator shall meet the minimum qualifications required of a counselor of conciliation as provided in Section 1745 of the Code of Civil Procedure.

(c) Mediation proceedings shall be held in private and shall be confidential, and all communications, verbal or written, from the parties to the mediator made in a proceeding pursuant to this section shall be deemed to be official information within the meaning of Section 1040 of the Evidence Code.

(d) The mediator shall have the authority to exclude counsel from participation in the mediation proceedings where, in the discretion of the mediator, exclusion of counsel is deemed by the mediator to be appropriate or necessary. The mediator shall have the duty to assess the needs and interests of the child or children involved in the controversy and shall be entitled to interview the child or children when the mediator deems the interview appropriate or necessary. The mediator shall have the authority to meet with the parties separately when a request for separate mediation is made by one of the parties in any proceeding where there has been a history of domestic violence between the parties, as domestic violence is defined in subdivision (b) of Section 542 of the Code of Civil Procedure.

(e) The mediator may, consistent with local rules, render a recommendation to the court as to the custody or visitation of the child or children. The mediator may, in cases where the parties have not reached agreement as a result of the mediation proceeding, recommend to the court that an investigation be conducted pursuant to Section 4602, or that other action be taken to assist the parties to effect a resolution of the controversy prior to any hearing on the issues. The mediator may, in appropriate cases, recommend that mutual restraining orders be issued, pending determination of the controversy, to protect the well-being of the children involved in the controversy. Any agreement reached by the parties as a result of mediation shall be reported to counsel for the parties by the mediator on the day set for mediation or as soon thereafter as practical, but prior to its being reported to the court. The agreement

shall be limited to the resolution of issues relating to parenting plans, custody, or visitation, or any combination thereof. No agreement shall be confirmed or otherwise incorporated in an order of the court unless each party, in person or by his or her counsel of record, has affirmed and assented to the agreement in open court or by written stipulation. An agreement also may be so confirmed or incorporated if a party fails to appear at a noticed hearing on the issue involved in the agreement. All such custody or visitation agreements may be modified at any time at the discretion of the court, subject to Sections 4600, 4600.5, and 4601.

(f) Nothing in this section shall prohibit the mediator from recommending to the court that counsel be appointed pursuant to Section 4606 to represent the minor child or children. In making any recommendation, the mediator shall inform the court of the reasons why it would be in the best interests of the minor child or children to have counsel appointed.

(g) Courts shall develop local rules to respond to requests for a change of mediators or to general problems relating to mediation.

CHAPTER 349

An act to add Chapter 10.8 (commencing with Section 25940) to Division 15 of the Public Resources Code, relating to energy resources conservation.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990]

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

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

(a) The residential housing sector uses 30 percent of the electricity and gas consumed in California.

(b) More than 60 percent of the homes in California were built prior to the required use of energy efficiency standards in new buildings, and these existing homes represent a significant part of the statewide demand for energy.

(c) While the State Energy Resources Conservation and Development Commission has a comprehensive program to reduce energy use in schools, hospitals, and local government facilities that were constructed before the required use of energy efficiency standards, the commission has no comparable program to reduce energy use in existing homes.

(d) California homeowners need state guidance, such as home energy rating and labeling programs, to make informed decisions on cost-effective options to improve the energy efficiency of their existing homes.

(e) In addition to lowering energy utility bills, home energy rating and labeling information for existing homes could benefit homeowners by increasing the marketability of their homes at the time of sale.

(f) Housing retrofits encouraged by home energy rating and labeling programs could also help reduce air pollution through energy conservation.

(g) It is in the interest of the State of California to undertake pilot projects and establish guidelines as soon as practicable for the utilization of home energy rating and labeling programs.

SEC. 2. Chapter 10.8 (commencing with Section 25940) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 10.8. HOME ENERGY AND LABELING PROGRAM

25940. (a) The commission shall adopt, no later than June 30, 1992, home energy rating and labeling guidelines that can be used by homeowners to make cost-effective decisions regarding options for improving the energy efficiency of their homes.

(b) In establishing home energy rating and labeling guidelines, the commission shall consider the results of the review of similar programs undertaken in other states considered pursuant to Section 25942, to ensure that the overall costs of implementing the commission guidelines are likely to be exceeded by the benefits of improved home energy efficiency achieved by the guidelines.

25941. The guidelines required by Section 25940 shall include, but not be limited to, a procedure for determining the percentage of energy savings which can be achieved for each R-value, as described in Section 25910, through installation of any of the following types of insulation:

(a) Attic.
(b) Door.
(c) Floor.
(d) Wall.
(e) Window.

25942. As part of the biennial energy conservation report required by Section 25401.1, the commission shall review and evaluate home energy rating and labeling programs for existing homes undertaken in other states, and provide a summary of the progress made by the commission to develop and implement these programs for the benefit of the citizens of California.

CHAPTER 350

An act to amend Sections 119, 2795, and 4390 of the Business and Professions Code, to amend Section 6200 of the Government Code, to amend Sections 11140, 11366.7, and 12702 of the Health and Safety Code, and to amend Sections 67.5, 95, 136.1, 146, 146a, 148.4, 154, 155, 171b, 12020, 12322, and 12403 of the Penal Code, relating to criminal law.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 119 of the Business and Professions Code is amended to read:

119. Any person who does any of the following is guilty of a misdemeanor:

(a) Displays or causes or permits to be displayed or has in his or her possession either of the following:

(1) A canceled, revoked, suspended, or fraudulently altered license.

(2) A fictitious license or any document simulating a license or purporting to be or to have been issued as a license.

(b) Lends his or her license to any other person or knowingly permits the use thereof by another.

(c) Displays or represents any license not issued to him or her as being his or her license.

(d) Fails or refuses to surrender to the issuing authority upon its lawful demand any license which has been suspended, revoked, or canceled.

(e) Permits any unlawful use of a license issued to him or her.

(f) Photographs, photostats, duplicates, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in his or her possession such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Sections 1000 and 3600.

SEC. 2. Section 2795 of the Business and Professions Code is amended to read:

2795. Except as provided in this chapter, it is unlawful for any person to do any of the following:

(a) To practice or to offer to practice nursing in this state unless the person holds a license in an active status.

(b) To use any title, sign, card, or device to indicate that he or she is qualified to practice or is practicing nursing, unless the person has

been duly licensed or certified under this chapter.

SEC. 3. Section 4390 of the Business and Professions Code is amended to read:

4390. (a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of a forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

(b) Every person who has in his or her possession any drugs secured by such forged prescription shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

SEC. 4. Section 6200 of the Government Code is amended to read:

6200. Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his or her hands for any purpose, is punishable by imprisonment in the state prison for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:

(a) Steal, remove, or secrete.

(b) Destroy, mutilate, or deface.

(c) Alter or falsify.

SEC. 5. Section 11140 of the Health and Safety Code is amended to read:

11140. (a) The sheriff of each county, in accordance with regulations of the Attorney General, shall maintain a system of registration for persons who sell, purchase, or possess piperidine within the incorporated or unincorporated territory of the county. The regulations of the Attorney General shall prescribe uniform criteria for the issuance of registrations under this article, and shall include a standardized application form and the form of certificates evidencing registration. It shall be unlawful for any person to knowingly sell, purchase, or possess piperidine without having a valid and subsisting registration pursuant to this section. It shall be unlawful for any person to knowingly sell piperidine to, or to purchase piperidine from, any other person who does not possess a valid and subsisting registration to engage in the transaction.

(b) A person convicted of a second or subsequent violation of this section shall be punished by imprisonment in the county jail for a period of six months or by imprisonment in the state prison.

(c) The sheriff shall require registrants to comply with the reasonable conditions of registration as may be required by regulations of the Attorney General to prevent diversion of piperidine for the unlawful manufacture of phencyclidine. The sheriff may revoke the registration of any registrant who fails to comply with a condition of registration.

(d) The sheriff may require a fee for each registration under this section for the purpose of defraying the costs of administering this article. The fees shall not exceed one hundred dollars ($100).

(e) Nothing in this section shall require a person registered to sell, purchase, or possess piperidine in one county to obtain additional registration in order to sell, purchase, or possess piperidine in another county.

SEC. 6. Section 11366.7 of the Health and Safety Code is amended to read:

11366.7. (a) This section shall apply to the following:

(1) Any chemical or drug.

(2) Any laboratory apparatus or device.

(b) Any retailer or wholesaler who sells any item in paragraph (1) or (2) of subdivision (a) with knowledge or the intent that it will be used to unlawfully manufacture, compound, convert, process, or prepare a controlled substance for unlawful sale or distribution, shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 7. Section 12702 of the Health and Safety Code is amended to read:

12702. Notwithstanding the provisions of Section 12700:

(a) Any person who violates this part by selling, giving, or delivering any dangerous fireworks to any person under 18 years of age is guilty of a misdemeanor and upon a first conviction shall be punished as prescribed in Section 12700.

(b) Upon any second or subsequent conviction of the offense, the person shall be punished by the penalties of a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and by imprisonment in the county jail for one year. The person shall not be granted probation and the execution of the sentence imposed upon the person shall not be suspended by the court.

(c) Any person who violates this part involving any dangerous fireworks item, as defined in Section 12505, or any combination of any dangerous fireworks items, having the total net weight of explosive material of 7,500 grains or more, is guilty of a public offense, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year, or by a fine of not more than five thousand dollars ($5,000), or by both the fine and imprisonment.

SEC. 8. Section 67.5 of the Penal Code is amended to read:

67.5. (a) Every person who gives or offers as a bribe to any ministerial officer, employee, or appointee of the State of California, county or city therein, or political subdivision thereof, any thing the theft of which would be petty theft is guilty of a misdemeanor.

(b) If the theft of the thing given or offered would be grand theft the offense is a felony.

SEC. 9. Section 95 of the Penal Code is amended to read:

95. Every person who corruptly attempts to influence a juror, or any person summoned or drawn as a juror, or chosen as an arbitrator

or umpire, or appointed a referee, in respect to his or her verdict in, or decision of, any cause or proceeding, pending, or about to be brought before him or her, is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, if it is by means of any of the following:

(a) Any oral or written communication with him or her except in the regular course of proceedings.

(b) Any book, paper, or instrument exhibited, otherwise than in the regular course of proceedings.

(c) Any threat, intimidation, persuasion, or entreaty.

(d) Any promise, or assurance of any pecuniary or other advantage.

SEC. 10. Section 136.1 of the Penal Code is amended to read:

136.1. (a) Except as provided in subdivision (c), any person who does any of the following is guilty of a misdemeanor:

(1) Knowingly and maliciously prevents or dissuades any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.

(2) Knowingly and maliciously attempts to prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.

(b) Except as provided in subdivision (c), every person who attempts to prevent or dissuade another person who has been the victim of a crime or who is witness to a crime from doing any of the following is guilty of a misdemeanor:

(1) Making any report of such victimization to any peace officer or state or local law enforcement officer or probation or parole or correctional officer or prosecuting agency or to any judge.

(2) Causing a complaint, indictment, information, probation or parole violation to be sought and prosecuted, and assisting in the prosecution thereof.

(3) Arresting or causing or seeking the arrest of any person in connection with such victimization.

(c) Every person doing any of the acts described in subdivision (a) or (b) knowingly and maliciously under any one or more of the following circumstances, is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years under any of the following circumstances:

(1) Where the act is accompanied by force or by an express or implied threat of force or violence, upon a witness or victim or any third person or the property of any victim, witness, or any third person.

(2) Where the act is in furtherance of a conspiracy.

(3) Where the act is committed by any person who has been convicted of any violation of this section, any predecessor law hereto or any federal statute or statute of any other state which, if the act prosecuted was committed in this state, would be a violation of this section.

(4) Where the act is committed by any person for pecuniary gain

or for any other consideration acting upon the request of any other person. All parties to such a transaction are guilty of a felony.

(d) Every person attempting the commission of any act described in subdivisions (a), (b), and (c) is guilty of the offense attempted without regard to success or failure of such attempt. The fact that no person was injured physically, or in fact intimidated, shall be no defense against any prosecution under this section.

(e) Nothing in this section precludes the imposition of an enhancement for great bodily injury where the injury inflicted is significant or substantial.

(f) The use of force during the commission of any offense described in subdivision (c) shall be considered a circumstance in aggravation of the crime in imposing a term of imprisonment under subdivision (b) of Section 1170.

SEC. 11. Section 146 of the Penal Code is amended to read:

146. Every public officer, or person pretending to be a public officer, who, under the pretense or color of any process or other legal authority, does any of the following, without a regular process or other lawful authority, is guilty of a misdemeanor:

(a) Arrests any person or detains that person against his or her will.

(b) Seizes or levies upon any property.

(c) Dispossesses any one of any lands or tenements.

SEC. 12. Section 146a of the Penal Code is amended to read:

146a. Any person who falsely represents himself or herself to be a public officer, or investigator, inspector, deputy, or clerk in any state department and who, in that assumed character, does any of the following is guilty of a misdemeanor and upon conviction is punishable by imprisonment in a county jail, not exceeding six months, or by a fine, not exceeding two thousand five hundred dollars ($2,500), or by both that fine and imprisonment:

(a) Arrests or detains or threatens to arrest or detain any person.

(b) Otherwise intimidates any person.

(c) Searches any person, building, or other property of any person.

(d) Obtains money, or property, or other thing of value.

SEC. 13. Section 148.4 of the Penal Code is amended to read:

148.4. (a) Any person who does any of the following is guilty of a misdemeanor and upon conviction is punishable by imprisonment in a county jail, not exceeding one year, or by a fine, not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment:

(1) Willfully and maliciously tampers with, molests, injures, or breaks any fire protection equipment, fire protection installation, fire alarm apparatus, wire, or signal.

(2) Willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any fire alarm system or signal or by any other means or methods.

(b) Any person who willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any fire alarm

system or signal, or by any other means or methods, is guilty of a felony and upon conviction is punishable by imprisonment in the state prison or by a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000), or by both that fine and imprisonment, if any person sustains as a result thereof, any of the following:

(1) Great bodily injury.

(2) Death.

SEC. 14. Section 154 of the Penal Code is amended to read:

154. (a) Every debtor who fraudulently removes his or her property or effects out of this state, or who fraudulently sells, conveys, assigns or conceals his or her property with intent to defraud, hinder or delay his or her creditors of their rights, claims, or demands, is punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment.

(b) Where the property so removed, sold, conveyed, assigned, or concealed consists of a stock in trade, or a part thereof, of a value exceeding one hundred dollars ($100), the offense shall be a felony and punishable as such.

SEC. 15. Section 155 of the Penal Code is amended to read:

155. (a) Every person against whom an action is pending, or against whom a judgment has been rendered for the recovery of any personal property, who fraudulently conceals, sells, or disposes of that property, with intent to hinder, delay, or defraud the person bringing the action or recovering the judgment, or with such intent removes that property beyond the limits of the county in which it may be at the time of the commencement of the action or the rendering of the judgment, is punishable by imprisonment in a county jail not exceeding one year, or by fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment.

(b) Where the property so concealed, sold, disposed of, or removed consists of a stock in trade, or a part thereof, of a value exceeding one hundred dollars ($100), the offenses shall be a felony and punishable as such.

SEC. 16. Section 171b of the Penal Code is amended to read:

171b. Any person, except a person who possesses or transports weapons to be used as evidence in a court of law, a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any such officer to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or a person holding a valid tear gas weapon card pursuant to Section 12403.7 allowing that person to carry the tear gas, who brings or possesses, within any courtroom or building designated as a courthouse or court building

in this state or at any meeting required to be open to the public pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code, any of the following, unless permission to possess that weapon is granted in writing by a duly authorized official or officials, is guilty of a public offense punishable by imprisonment in a county jail for not more than one year, or in the state prison:

(a) Any firearm.

(b) Any deadly weapon described in Section 653k or 12020.

(c) Any knife with a blade length in excess of four inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands.

(d) Any tear gas weapon, as defined in Sections 12401 and 12402.

(e) Any taser or stun gun, as defined in Section 244.5.

SEC. 17. 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 plastic firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sap, or sandbag, 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 sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles, by police departments, sheriffs' offices, city marshals' 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 or the possession of short-barreled shotguns and short-barreled rifles by regular, salaried, full-time 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 the use is authorized by the agency and is within the course and scope of their duties.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles 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.

(3) 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.

(4) 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.

(5) 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.

(6) Tracer ammunition manufactured for use in shotguns.

(7) 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 12101 of this code or Section 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time shall be punishable pursuant to Section 12021 or 12101 of this code or Section 8103 of the Welfare and Institutions Code. Within the year the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) 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 12101 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 12101 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.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of, any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than short-barreled rifles and shotguns, when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than short-barreled rifles and short-barreled shotguns, that are sold by, manufactured by, exposed, or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of, wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(c) (1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than

18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) 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.

(4) 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.

(5) 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.

(6) As used in this section, a "fléchette 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.

(7) 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.

(8) As used in this section, "ballistic knife" means a device that propels a knifelike 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.

(9) 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.

(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(E) It has a barrel or barrels less than 18 inches in length or an overall length of less than 26 inches.

(11) As used in this section, a "shuriken" means 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.

(12) As used in this section, an "unconventional pistol" means a pistol or revolver that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with

a length of at least 2½ inches.

(14) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, the term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, the term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, "plastic firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal

public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting a plastic firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(d) 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. 18. Section 12322 of the Penal Code is amended to read:

12322. Nothing in this chapter shall prohibit the sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his or her employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued pursuant to Section 12305.

SEC. 19. Section 12403 of the Penal Code is amended to read:

12403. Nothing in this chapter shall prohibit any person who is a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from purchasing, possessing, transporting, or using any tear gas weapon, if the weapon has been certified as acceptable under Article 5 (commencing with Section 12450) of this chapter and if the person has satisfactorily completed a course of instruction approved by the Commission on Peace Officer Standards and Training in the use of tear gas.

SEC. 20. Any section of any act enacted by the Legislature during the 1990 calendar year, which takes effect on or before January 1, 1991, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

CHAPTER 351

An act to amend Section 25372 of, and to repeal Section 25375 of, the Public Resources Code, relating to energy resources.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 25372 of the Public Resources Code is amended to read:

25372. The Legislature further finds and declares that it is the policy and goal of this state to limit the future use of motor vehicle

fuel in each county whenever it is determined by the commission that the continued high consumption of motor vehicle fuels will have a detrimental effect on the state's citizens during a proclaimed state of emergency.

SEC. 2. Section 25375 of the Public Resources Code is repealed.

CHAPTER 352

An act to amend Section 11107.1 of the Health and Safety Code, relating to crimes.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 18, 1990.]

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

SECTION 1. Section 11107.1 of the Health and Safety Code is amended to read:

11107.1. (a) Any manufacturer, wholesaler, retailer, or other person who sells to any person in this state any quantity of sodium cyanide, potassium cyanide, cyclohexanone, bromobenzene, magnesium turnings, mercuric choloride, sodium metal, lead acetate, paladium black, red phosphorous, Refrigerant 11, Refrigerant 12, sodium acetate, or acetic anhydride shall do the following:

(1) Require proper purchaser identification as specified in paragraph (2) of subdivision (c) of Section 11100. The person selling, transferring, or otherwise furnishing the substances specified in this section shall enter the proper purchaser identification information onto the bill of sale or a legible copy of the bill of sale and shall also affix his or her signature as witness to the identification of the purchaser.

(2) Retain the bill of sale or the legible copy of the bill of sale containing the purchaser identification information for three years in a readily presentable manner, and present the bill of sale or the legible copy of the bill of sale containing the purchaser identification information upon demand by any law enforcement officer or authorized representative of the Attorney General.

(b) A violation of this section is a misdemeanor.

CHAPTER 353

An act to add Section 1599.651 to the Health and Safety Code, relating to long-term health care.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 18, 1990]

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

SECTION 1. Section 1599.651 is added to the Health and Safety Code, to read:

1599.651. A person who seeks to be admitted to the same long-term health care facility for which there exists a prior executed contract of admission which was signed by that person, or his or her legal representative, responsible party, or agent, in accordance with this chapter shall not be required to execute a new contract of admission if the person, or his or her legal representative, responsible party, or agent, either prior to or upon readmission, signs a written statement prepared by the facility which lists the modifications to the contract of admission.

The written statement shall indicate the date upon which the person's signature was obtained. The written statement shall be kept on file by the facility with the person's previously signed contract of admission.

This section shall not apply to any person who has been declared legally incompetent subsequent to the time he or she signed the contract of admission. This section shall not apply to any person when the physician and surgeon of that person has determined that the person is unable to understand and sign the written statement because of his or her medical condition.

No written statement shall contain any provision that is prohibited from being included in a contract of admission.

A new contract of admission or a written statement which lists the modifications need not be signed by the person, or his or her legal representative, responsible party, or agent, in the case of a transfer during a bedhold period.

CHAPTER 354

An act to add Section 16461.5 to the Public Utilities Code, relating to public utility districts.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990]

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

SECTION 1. Section 16461.5 is added to the Public Utilities Code, to read:

16461.5. (a) The Shasta Dam Area Public Utility District may construct those public works necessary for the industrial and commercial development of any undeveloped property owned by the district prior to January 12, 1990. A decision by the Shasta Dam Area Public Utility District to construct public works pursuant to this section is a legislative act subject to referendum pursuant to Article 2 (commencing with Section 5200) of Chapter 4 of Division 5 of the Elections Code. The improvements shall comply with all of the ordinances, resolutions, policies, and other standards of the city or county in which the property is located, and comply with all state laws governing public works and public agencies.

(b) Any contract awarded by the Shasta Dam Area Public Utility District pursuant to this section shall be considered a public works project subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(c) None of the costs for public works constructed pursuant to this section shall be borne by Shasta Dam Area Public Utility District customers.

SEC. 2. The Shasta Dam Area Public Utility District is experiencing a grave financial crisis and it is necessary that the district be permitted to use its assets in the most advantageous manner. Due to these unique facts and circumstances, 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. This act, therefore, is necessarily applicable only to the Shasta Dam Area Public Utility District.

CHAPTER 355

An act to amend Sections 10631, 10632, and 10644 of, to add Section 10645 to, and to repeal Section 10656 of, the Water Code, relating to water.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 10631 of the Water Code is amended to read:

10631. A plan shall include all of the following elements:

(a) Contain an estimate of past, current, and projected water use and, to the extent records are available, segregate those uses between residential, industrial, commercial, and governmental uses.

(b) Identify conservation measures currently adopted and being practiced.

(c) Describe alternative conservation measures, including, but not limited to, consumer education, metering, water saving fixtures and appliances, lawn and garden irrigation techniques, and low water use landscaping, which would improve the efficiency of water use with an evaluation of their costs and their environmental and other significant impacts.

(d) Provide a schedule of implementation for proposed actions as indicated by the plan.

(e) Describe the frequency and magnitude of supply deficiencies, based on available historic data and future projected conditions comparing water supply and demand, including a description of deficiencies in time of drought and emergency, and the ability to meet deficiencies.

(f) To the extent feasible, describe the method which will be used to evaluate the effectiveness of each conservation measure implemented under the plan.

(g) Describe the steps which would be necessary to implement any proposed actions in the plan.

SEC. 2. Section 10632 of the Water Code is amended to read:

10632. In addition to the elements required pursuant to Section 10631, a plan projecting a future use which indicates a need for expanded or additional water supplies shall contain an evaluation of the following alternatives:

(a) Waste water reclamation.

(b) Exchanges or transfer of water on a short-term or long-term basis.

(c) Management of water system pressures and peak demands.

(d) Issues relevant to meter retrofitting for all uses.

(e) Incentives to alter water use practices, including fixture and appliance retrofit programs.

(f) Public information and educational programs to promote wise use and eliminate waste.

(g) Changes in pricing, rate structures, and regulations.

SEC. 3. Section 10644 of the Water Code is amended to read:

10644. An urban water supplier shall file with the department a copy of its plan no later than 30 days after adoption. Copies of amendments or changes to the plans shall be filed with the department within 30 days after adoption.

Plans filed under this section shall describe the basis for the decision of the urban water supplier to add, change, or retain conservation measures.

The department shall annually prepare and submit to the Legislature a report summarizing the status of the plans adopted pursuant to this part. The report prepared by the department shall highlight the outstanding elements of individual plans. The department shall provide a copy of the report to each urban water supplier which has filed its plan with the department. The department shall also prepare reports and provide data for any legislative hearings designed to consider the effectiveness of plans submitted pursuant to this part.

SEC. 4. Section 10645 is added to the Water Code, to read:

10645. Not later than 30 days after filing a copy of its plan with the department, the urban water supplier and the department shall make the plan available for public review during normal business hours.

SEC. 5. Section 10656 of the Water Code is repealed.

SEC. 6. 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 356

An act relating to the Phoenix Motel swimming pool mural, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. The Legislature finds and declares that:

(a) The Phoenix Motel swimming pool in San Francisco is of unique artistic significance, and its underwater mural, painted by

New York artist Francis Forlenza, is an important cultural landmark which should be preserved.

(b) To allow needless destruction of this unique work of art would be a great tragedy and inconsistent with the intent of the state law on art preservation, which establishes a "public interest in preserving the integrity of cultural and artistic creations."

SEC. 2. No state or local administrative regulation shall require the destruction or alteration of the Phoenix Motel swimming pool mural, provided the mural is not altered. Any touchup or repair to the swimming pool mural shall be performed with slip-resistant, cleanable, nonglare and durable standard swimming pool paint and materials.

SEC. 3. Due to the unique circumstances concerning the Phoenix Motel swimming pool, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

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

In order to prevent destruction of the Phoenix Motel swimming pool mural, it is necessary that this act go into immediate effect.

CHAPTER 357

An act to amend Section 16000 of the Business and Professions Code, and to amend Section 37101 of the Government Code, relating to business taxes.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990]

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

SECTION 1. Section 37101 of the Government Code is amended to read:

37101. (a) The legislative body may license, for revenue and regulation, and fix the license tax upon, every kind of lawful business transacted in the city, including shows, exhibitions, and games. It may provide for collection of the license tax by suit or otherwise. If the legislative body levies a sales tax under the authority of this section, it may impose a complementary tax at the same rate upon use or other consumption of tangible personal property.

If the legislative body imposes a sales or use tax, it shall do so in the same manner and use the same tax base as prescribed in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code.

(b) Any legislative body, including the legislative body of a

charter city, which imposes a license tax pursuant to subdivision (a) upon a business operating both within and outside the legislative body's taxing jurisdiction, shall levy the tax so that the measure of tax fairly reflects that proportion of the taxed activity actually carried on within the taxing jurisdiction.

SEC. 2. Section 16000 of the Business and Professions Code is amended to read:

16000. The legislative bodies of incorporated cities may, in the exercise of their police power, and for the purpose of regulation, as herein provided, and not otherwise, license any kind of business not prohibited by law transacted and carried on within the limits of their jurisdictions, including all shows, exhibitions and lawful games, and may fix the rates of these license fees and provide for their collection by suit or otherwise. Any legislative body, including the legislative body of a charter city, which fixes the rate of license fees pursuant to this section upon a business operating both within and outside the legislative body's taxing jurisdiction, shall levy the license fee so that the measure of the fee fairly reflects that proportion of the activity actually carried on within the taxing jurisdiction.

CHAPTER 358

An act to amend Section 6661 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1990. Filed with Secretary of State July 19, 1990]

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

SECTION 1. Section 6661 of the Elections Code is amended to read:

6661. No person whose name has been written in upon a ballot for an office at the direct primary may have his or her name placed upon the ballot as a candidate for that office for the ensuing general election unless one of the following statements is true:

(a) At that direct primary he or she received for that office votes equal in number to 1 percent of all votes cast for the office at the last preceding general election at which the office was filled. In the case of an office which has not appeared on the ballot since its creation, the requisite number of votes shall equal 1 percent of the number of all votes cast for the office which had the least number of votes in the most recent general election in the jurisdiction in which the write-in candidate is seeking office.

(b) He or she is an independent nominee pursuant to Chapter 6 (commencing with Section 6800).

(c) He or she has been designated by a party central committee

to fill a vacancy on the ballot for the general election.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify the law at the earliest possible time with respect to the placement on the ballot for the 1990 general election of write-in candidates for offices which have not appeared on the ballot since creation of the office, it is necessary that this act take effect immediately.

CHAPTER 359

An act to amend Sections 19605.7, 19605.71, 19605.73, 19605.8, 19608.9, 19616, 19616.1, and 19617 of the Business and Professions Code, relating to horseracing.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 19605.7 of the Business and Professions Code, as added by Senate Bill 2356 of the 1989–90 Regular Session, is amended to read:

19605.7. The total percentage deducted from wagers at satellite wagering facilities in the northern zone 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 until January 1, 1992. Amounts deducted under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent 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, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2, and one-tenth of 1 percent distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(b) For 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 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, and the amount of actual operating expenses, as determined by the board, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas; in the case of standardbreds, four-tenths of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2; and one-tenth of 1 percent 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 the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(c) In addition to the distributions specified in subdivision (a) or (b), for thoroughbred and fair meetings only, six-tenths of 1 percent of the total amount handled by each satellite wagering facility shall be allocated to the facility for promotion of that meeting's program. For harness, quarter horse, and mixed breed meetings, 1 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities.

(d) In addition to the distributions specified in subdivisions (a), (b), and (c), for thoroughbred meetings, four-tenths of 1 percent of the total amount handled at each satellite wagering facility shall be allocated to the association providing the racing program to reimburse it for any costs of offsite stabling and vanning which are required pursuant to Section 19535. The amount of the reimbursement payable to an association for offsite stabling shall not exceed the actual cost to the association of maintaining stalls at its racetrack plus the actual costs incurred by the association to provide vanning and transportation of racehorses from offsite stabling facilities to its racetrack.

(e) In addition to the distributions specified in subdivisions (a), (b), and (c), for fair meetings, four-tenths of 1 percent of the total amount handled at each satellite wagering facility shall be allocated to the organization representing racing fairs to reimburse fairs for the actual cost of providing offsite stabling required by the board pursuant to Section 19535. If fairs contract with associations to provide offsite stabling during fair meetings, the cost incurred by fairs shall not exceed the actual cost to the association of maintaining the stalls or the amount of reimbursement funds made available

pursuant to this subdivision, whichever is less. In the event of a disagreement between an association and the organization representing racing fairs or the organization representing the majority of horsemen participating at the meeting with respect to the actual cost of maintaining stalls, the board, at the request of the association or the organization representing racing fairs or the organization representing the majority of horsemen participating at the meeting, shall determine within 60 days the amount of actual costs incurred. For purposes of this subdivision, "actual cost" does not include fixed overhead or administrative expenses which would be incurred by the association in the absence of an agreement to provide offsite stabling during fair meetings.

(f) Any of the promotional funds distributed pursuant to subdivision (c) that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount.

(g) Any of the stabling and vanning reimbursement funds distributed pursuant to subdivision (d) or (e) that are not expended within 90 days of the end of the meeting at which they are collected shall be reallocated for promotion of the program at satellite wagering facilities, as provided in subdivision (c).

(h) Additionally, for thoroughbred, harness, quarter horse, mixed breed, and fair meetings, thirty-three hundredths of 1 percent of the total amount handled by each 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.

(i) 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. Section 19605.71 of the Business and Professions Code, as added by Senate Bill 2356 of the 1989–90 Regular Session, is amended to read:

19605.71. The total percentage deducted from wagers at satellite wagering facilities in the central and southern zone 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 until January 1, 1992. Amounts deducted by a satellite wagering facility under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent 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, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to

subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2, and one-tenth of 1 percent distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(b) For 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 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission, and the amount of actual operating expenses, as determined by the board, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas; in the case of standardbreds, four-tenths of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2; and one-tenth of 1 percent 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 the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(c) In addition, for thoroughbred meetings and harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1 percent shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities. Any of the promotion funds that are not distributed in the year in which they are collected may be distributed in the following year. If promotion funds distributed in any year exceed the amount collected for that year, the funds distributed in the following year shall be reduced by the excess amount. Additionally, thirty-three hundredths 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) 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. 3. Section 19605.73 of the Business and Professions Code, as added by Senate Bill 2356 of the 1989–90 Regular Session, is amended to read:

19605.73. Commencing on January 1, 1992, the total percentage

deducted from wagers at satellite wagering facilities in all zones 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:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent 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, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2, and one-tenth of 1 percent distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(b) For 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 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent 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, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas; in the case of standardbreds, four-tenths of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2; and one-tenth of 1 percent 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 the one-tenth of 1 percent of funds distributed to the Equine Research Laboratory shall supplement, and not supplant, other funding sources.

(c) In addition to the distributions specified in subdivisions (a) and (b), for 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 Section 19608.2 for promotion of the

program at satellite wagering facilities. Any of the promotion funds that are not distributed in the year in which they are collected may be distributed in the following year. If promotion funds distributed in any year exceed the amount collected for that year, the funds distributed in the following year shall be reduced by the excess amount. Additionally, thirty-three hundredths 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) This section shall become operative on January 1, 1992.

SEC. 4. Section 19605.8 of the Business and Professions Code, as added by Senate Bill 2356 of the 1989–90 Regular Session, is amended to read:

19605.8. For thoroughbred meetings, the funds remaining after distribution of the amounts set forth in Sections 19605.7, 19605.71, and 19605.73 shall be distributed 50 percent as commissions to the association which conducts the racing meeting and 50 percent as purses to the horsemen participating in the racing meeting.

SEC. 5. Section 19608.9 of the Business and Professions Code, as added by Senate Bill 2356 of the 1989–90 Regular Session, is amended to read:

19608.9. (a) Notwithstanding subdivisions (a) and (b) of Section 19605.7, subdivisions (a) and (b) of Section 19605.71, subdivisions (a) and (b) of Section 19605.73, or any other provision of law, of the amounts deducted from wagers at satellite wagering facilities pursuant to Sections 19605.7, 19605.71, and 19605.73 for thoroughbred meetings or thoroughbred races at mixed breed or fair meetings, four-tenths of 1 percent shall be deposited with the official registering agency for distribution pursuant to subdivision (a) of Section 19617.2, and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2.

(b) Notwithstanding Section 19605.8 or 19606 on thoroughbred meetings or thoroughbred races at mixed breed or fair meetings, the funds remaining after distribution of the amounts set forth in Sections 19605.7, 19605.71, and 19605.73 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, but from the purses an amount in the same relative percentage as that set aside pursuant to subdivision (b) of Section 19611.5 and subdivision (c) of Section 19614.2, shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall, thereafter, be distributed pursuant to subdivisions (b) and (c) of Section 19617.2.

SEC. 6. Section 19616 of the Business and Professions Code is amended to read:

19616. (a) Notwithstanding any other provision of law, wagers accepted on out-of-state feature races pursuant to Section 19596, but not included in the parimutuel pool or pools of the entity conducting

the out-of-state racing, shall be placed in a separate parimutuel pool or pools and shall be distributed as provided by this section.

(b) Each association accepting wagers on an out-of-state feature race shall deduct a percentage of the amount handled in its conventional and exotic parimutuel pools which is equal to the percentage deducted from the amount handled by the association in its parimutuel pools at its racing meeting.

(c) Each association shall pay a state license fee at the rate or rates applicable to the races of the association's racing program for the day on which the out-of-state feature race is offered. If the association does not conduct a regular racing program on that day of the meeting, the state license fee shall be paid at the rate or rates applicable to the most immediate prior day of the racing program.

(d) Breakage and unclaimed tickets on out-of-state feature races shall be distributed 50 percent as commissions and 50 percent as purses.

(e) The amount remaining from the deduction under subdivision (b), after payment of the state license fee and the contractual payment to the out-of-state host racing association, shall be distributed 50 percent as commissions and 50 percent as purses.

(f) From the amount distributed under subdivision (e) for quarter horse and Appaloosa purses, a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. The sum shall be deposited within 10 days of the close of the meeting with the officially recognized organizations representing the respective breeds. After deduction of expenses, not to exceed 5 percent, and approval of all the deductions by the board, the fund shall be distributed on a prorated percentage basis of first moneys earned to persons owning California-bred racehorses at the time of their wins in accordance with subdivision (b) of Section 19612.2 and subdivision (c) of Section 19617.

(g) From the amount distributed for thoroughbred purses under subdivision (e), a sum equal to 13.33 percent thereof shall be held by the association to be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2, and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2.

SEC. 7. Section 19616.1 of the Business and Professions Code is amended to read:

19616.1. (a) Notwithstanding any other provision of law, wagers accepted on out-of-state feature races pursuant to Section 19596 and included in the parimutuel pool or pools of the entity conducting the out-of-state racing shall be distributed as provided in this section.

(b) From the amount handled by the association and included in the parimutuel pool or pools of the entity conducting the out-of-state racing, each association shall deduct a percentage equal to the percentage deducted from the amount handled by the association in its parimutuel pools at its racing meeting.

(c) From the amount deducted pursuant to subdivision (b), each association shall pay a state license fee at the rate or rates applicable to the races of the association's racing program for the day on which the out-of-state feature is offered.

(d) Breakage and unclaimed tickets on out-of-state feature races shall be distributed 50 percent as commission and 50 percent as purses.

(e) The amount remaining from the deduction under subdivision (b), after payment of the state license fee and the contractual payment to the out-of-state host racing association, shall be distributed 50 percent as commissions and 50 percent as purses.

(f) From the amount distributed under subdivision (e) for quarter horse and Appaloosa purses, a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. The sum shall be deposited within 10 days of the close of the meeting with the officially recognized organization representing the respective breeds. After deduction of expenses, not to exceed 5 percent, and approval of all the deductions by the board, the funds shall be distributed on a prorated percentage basis of first moneys earned to persons owning California-bred racehorses at the time of their wins in accordance with subdivision (b) of Section 19612.2 and subdivision (c) of Section 19617.

(g) From the amount distributed for thoroughbred purses under subdivision (e), a sum equal to 13.33 percent thereof shall be held by the association to be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2, and shall thereafter be distributed in accordance with subdivisions (b) and (c) of Section 19617.2.

SEC. 8. Section 19617 of the Business and Professions Code is amended to read:

19617. The following definitions shall govern the construction of this chapter:

(a) "Breeder" means a person who is registered as a breeder of a California-bred thoroughbred with the official registering agency and is named on the applicable Certificate of Registration issued by the Jockey Club of New York.

(b) "Qualifying race" means the following:

(1) In the case of breeder awards, all races in this state, and all graded stakes races conducted within the United States.

(2) In the case of owner premiums, all nonclaiming races in this state and certain claiming races conducted in this state.

(3) In the case of stallion awards, all nonclaiming races in this state, certain claiming races conducted in this state, and all graded stakes races conducted within the United States.

(4) "Certain claiming races" means those claiming races in the central and southern zone in which the total purse exceeds the daily average purse in races, excluding stakes, distributed at that meeting during the prior year, or a claiming race in the northern zone in

which the total purse exceeds 125 percent of the daily average purse in races, excluding stakes, distributed at that meeting during the prior year. In determining whether a race complies with this definition, the official registering agency shall base its determination on the actual amount of the purse at the time the race was conducted and shall not take into consideration any postrace adjustments to that purse.

(c) "Eligible earnings" means the following:

(1) In the case of breeder awards, the annual amount earned by a California-bred thoroughbred for finishing first, second, or third in qualifying races.

(2) In the case of owner premiums, the annual amount earned by a California-bred thoroughbred for winning qualifying races.

(3) In order for earnings from a qualifying race to be considered as eligible earnings, a California-bred thoroughbred shall be registered as such with the official registering agency before the date entries were taken by the association for the qualifying race in which that horse earned purse money.

(4) In the case of stallion awards, the annual amount earned by California-conceived or California-bred foals of an eligible thoroughbred sire in winning qualifying races plus the amount earned by those foals for finishing second or third in a stakes race in this state and for finishing first, second, or third in a graded stakes race within the United States.

(5) For purposes of this paragraph, the maximum purse considered earned in any qualifying race within this state shall be three hundred thirty thousand dollars ($330,000) for a win, one hundred twenty thousand dollars ($120,000) for a second, and ninety thousand dollars ($90,000) for a third place finish and the maximum purse considered earned in any qualifying race outside of this state shall be one hundred sixty-five thousand dollars ($165,000) for a win, sixty thousand dollars ($60,000) for a second, and forty-five thousand dollars ($45,000) for a third place finish.

(6) In determining the purse earned in any qualifying race which is a stakes race, the amount earned shall be based solely on the added money, with no consideration to be given to other sources of the purse, such as nomination, entry, or starting fees, bonuses, and sponsor contributions, or any combination thereof.

(7) On or before February 1 of any year, it is the ultimate responsibility of the stallion owner to advise the official registering agency of any and all purses earned during the preceding year that shall be considered in determining the amount of the stallion award to which the owner is entitled.

(8) On or before February 1 of any year, it is the ultimate responsibility of the breeder to advise the official registering agency of any and all purses earned during the preceding year in graded stakes races outside of this state by horses bred by breeder.

(d) "Eligible thoroughbred sire" means a thoroughbred stallion that was continuously present in this state from February 1 to July

15, inclusive, of the calendar year in which the qualifying race was conducted, and if the sire left this state after July 15 of the calendar year in which the qualifying race was conducted, the sire returned to and was present in this state by February 1 of the following calendar year and thereafter remained until July 15 of that year. If a sire dies in this state and stood his last season at stud in this state, he shall thereafter continue to be considered an eligible thoroughbred sire. Notwithstanding any provision to the contrary, a thoroughbred stallion shall be considered an eligible thoroughbred sire only if its owner has filed a claim for stallion award on or before February 1 of the calendar year immediately following the calendar year for which the awards are being distributed.

(e) "Official registering agency" means the California Thoroughbred Breeders Association.

(f) "Owner" means the person who is registered with the paymaster of purses on the date the qualifying race was conducted as the owner of the California-bred thoroughbred earning purse money in that race.

(g) "Quotient," for any fund, means the amount allocated to that fund pursuant to subdivision (b) of Section 19617.2 divided by the aggregate eligible earnings of the horses applicable to that fund. In calculating the quotient for each of the funds, any retroactive purse payments with respect to a race shall not be considered after the disbursement of the fund.

(h) "Stallion owner" means the person who is the owner of the eligible thoroughbred sire as of December 31 of the calendar year in which that sire's foals had eligible earnings or the person who owned the eligible thoroughbred sire on the date that the sire died.

CHAPTER 360

An act to amend Section 29270 of the Public Utilities Code, relating to transit districts.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 29270 of the Public Utilities Code is amended to read:

29270. If lost or completely destroyed, any bond, note, coupon, or other evidence of indebtedness may be reissued in the form and tenor of the lost or destroyed bond, note, coupon, or other evidence of indebtedness, upon the owner furnishing all of the following to the satisfaction of the district:

(a) Proof of ownership.

(b) Proof of loss or destruction.

(c) An undertaking to indemnify the district against any loss incurred on account of the bond, note, coupon, or other evidence of indebtedness.

(d) Payment of the cost of preparing and issuing the new bond, note, coupon, or other evidence of indebtedness.

CHAPTER 361

An act to amend Section 63124 of, and to add Section 63123.5 to, of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 19, 1990]

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

SECTION 1. Section 63123.5 is added to the Food and Agricultural Code, to read:

63123.5. Any contract which is not exempt pursuant to Section 63124, including, but not limited to, any contract which makes a reference to a posted price for the purchase of strawberries by a processor from a producer and which also provides an additional purchase price, as defined by the director by regulation pursuant to Section 63123, shall be filed with the advisory board and posted in the manner prescribed by the director.

SEC. 2. Section 63124 of the Food and Agricultural Code is amended to read:

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

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

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

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

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

chapter.

(5) A contract that makes a reference to a processor's posted price for the purchase of processing strawberries by the processor from a producer which does not contain an additional purchase price, as defined by the director by regulation pursuant to Section 63123.

(b) Notwithstanding any other provision of this chapter, any contract which is exempt from this chapter pursuant to subdivision (a) shall be filed with the advisory board in the manner prescribed by the director pursuant to Section 63123.

(c) Information obtained by the advisory board pursuant to this chapter shall be maintained in confidence. However, the advisory board may disclose, upon request, whether a particular producer's processing strawberries are covered by an exempt contract or other arrangement.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 362

An act to amend Section 14083 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990]

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

SECTION 1. The Legislature finds and declares that there is a need to ensure special consideration under Medi-Cal Selective Provider Contracting for those hospitals that serve a high volume of Medi-Cal patients. These hospitals continue to be essential for providing access to acute inpatient care for Medi-Cal eligibles.

SEC. 2. Section 14083 of the Welfare and Institutions Code is amended to read:

14083. The factors to be considered by the negotiator in negotiating contracts under this article, or in drawing specifications for competitive bidding, include, but are not limited to, all of the following:

(a) Beneficiary access.

(b) Utilization controls.

(c) Ability to render quality services efficiently and economically.

(d) Demonstrated ability to provide or arrange needed specialized services.

(e) Protection against fraud and abuse.

(f) Any other factor which would reduce costs, promote access, or enhance the quality of care.

(g) The capacity to provide a given tertiary service, such as specialized children's services, on a regional basis.

(h) Recognition of the variations in severity of illness and complexity of care.

(i) Existing labor-management collective bargaining agreements.

(j) The situation of county hospitals and university medical centers contracting with counties for provision of health care to indigent persons entitled to care under Section 17000, which are burdened to a greater extent than private hospitals with bad debts, indirect costs, medical education programs, and capital needs.

(k) The special circumstances of hospitals serving a disproportionate number of Medi-Cal beneficiaries and patients who are not covered by other third-party payers, including the costs associated with assuring an adequate supply of registered nurses.

(*l*) The costs of providing complex emergency services, including the costs of meeting and maintaining state and local requirements for trauma center designation.

(m) The hospital does any of the following:

(1) Provides additional obstetrical beds.

(2) Contracts with one or more comprehensive perinatal providers.

(3) Permits certified nurse midwives, subject to hospital rules, and consistent with existing laws and regulations, to admit patients to the health facility.

(4) Expands overall obstetrical services in the hospital.

(n) The special circumstances of hospitals whose Medi-Cal inpatient utilization rate exceeds the mean Medicaid inpatient utilization rate by at least one-half of one standard deviation.

CHAPTER 363

An act to amend Section 6 of Chapter 1306 of the Statutes of 1989, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 6 of Chapter 1306 of the Statutes of 1989 is amended to read:

Sec. 6. (a) On forms prepared and supplied by the State Department of Education, for purposes of this section, each school in a school district shall forward a completed report of pupil suspensions and expulsions at the end of each reporting period to the district superintendent. For purposes of this section, the two reporting periods are as follows:

(1) July 1, 1989, to June 30, 1990.

(2) July 1, 1990, to June 30, 1991.

(b) The district superintendent shall compile the school data and submit the aggregated district data on pupil suspensions and expulsions to the State Department of Education for each of the two reporting periods no later than the following August 1.

(c) The State Department of Education shall submit to the Legislature a summary of the statewide aggregated data not later than March 1 of each year for the previous school year.

(d) This section shall remain operative only until March 2, 1992, and as of that date is repealed.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make certain revisions to a school district reporting requirement that applies to the current fiscal year, it is necessary that this act take effect immediately.

CHAPTER 364

An act to repeal and add Section 37222 of, and to repeal Section 37222.5 of, the Education Code, relating to the state flower.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 37222 of the Education Code is repealed.

SEC. 2. Section 37222 is added to the Education Code, to read:

37222. (a) The following days in each year are designated and set apart as days having special significance:

(1) The second Wednesday in May as the Day of the Teacher.

(2) April 21 of each year as John Muir Day.

(3) April 6 of each year as California Poppy Day.

(b) On each of the days designated in subdivision (a), all public schools and educational institutions are encouraged to observe those days and to conduct suitable commemorative exercises as follows:

(1) On the Day of the Teacher, exercises commemorating and directing attention to teachers and the teaching profession.

(2) On John Muir Day, exercises stressing the importance that an

ecologically sound natural environment plays in the quality of life for all of us, and emphasizing John Muir's significant contributions to the fostering of that awareness and the indelible mark he left on the State of California.

(3) On California Poppy Day, exercises honoring the California Poppy, including instruction about native plants, particularly the California Poppy, and the economic and aesthetic value of wildflowers; promoting responsible behavior toward our natural resources and a spirit of protection toward them; and emphasizing the value of natural resources and conservation of natural resources.

(c) It is the intent of the Legislature that the exercises encouraged in this section be integrated into the regular school program, and be conducted by the school or institution within the amount otherwise budgeted for educational programs.

SEC. 3. Section 37222.5 of the Education Code is repealed.

CHAPTER 365

An act to amend Section 36981 of, and to add Section 36866 to, the Food and Agricultural Code, relating to dairy products.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 36866 is added to the Food and Agricultural Code, to read:

36866. (a) Nonfat ice cream shall be made in the same manner and from the same ingredients as ice cream and special varieties of ice cream. Nonfat ice cream may be flavored with natural or artificial flavors and colors, if all the applicable labeling requirements are met.

(b) Nonfat ice cream shall contain less than 0.50 percent milk fat. It shall contain at least 10 percent of total milk solids before the addition of bulky flavors, and shall have not less than 1.3 pounds of food solids per gallon of finished product. Nonfat ice cream shall weigh at least 4.0 pounds per gallon of finished product.

(c) The provisions for the reduction of milk fat and total milk solids for ice cream in Sections 36892 and 36893 do not apply to nonfat ice cream. Nothing in this standard prohibits the use of bulky flavors in nonfat ice cream. Nothing in this part, or the regulations adopted pursuant thereto, concerning ice cream prevents the addition of caseinates to nonfat ice cream if the total milk solids are at least 10 percent before the addition of caseinates.

(d) Nonfat ice cream shall be labeled in the same manner as ice cream, except that it shall be labeled for nutritional content in conformance with the Code of Federal Regulations. The labeling requirements that apply to ice cream pursuant to Article 4

(commencing with Section 36670) of Chapter 1 also apply to nonfat ice cream when sweeteners described in that article are used. All state and federal laws and regulations pertaining to the labeling of ice cream apply to nonfat ice cream, including those federal regulations which govern the nomenclature of naturally and artificially flavored ice cream pursuant to subsection (e) of Section 135.110 of Title 21 of the Code of Federal Regulations.

SEC. 2. Section 36981 of the Food and Agricultural Code is amended to read:

36981. Quiescently frozen confections means a clean and wholesome frozen, sweetened, flavored product in the manufacture of which freezing, which is not accompanied with stirring or agitation (generally known as quiescent freezing), has been used. This confection may be acidulated with harmless organic acid, may contain milk solids, may be made with or without added harmless pure or imitation flavoring, and with or without added harmless coloring approved by the director. The finished product may contain stabilizers at a level that is necessary to achieve the desired function.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 366

An act to add Section 39360.1 to the Education Code, relating to school property.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 19, 1990]

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

SECTION 1. (a) The Legislature finds and declares that it is desirable to a school district, in certain circumstances, that it sell or lease property and, simultaneously, repurchase or lease back the same property in order to accomplish certain financing purposes that benefit the district.

(b) The Legislature further finds and declares that, because the use of the property and the benefits associated with that use remain with the school district in the case of a transaction as described in subdivision (a), the application of certain requirements of existing

law governing the disposition of school district property is inappropriate in that case. It is the intent of the Legislature, therefore, in enacting this act, to clarify that those requirements of existing law do not govern certain transactions involving the sale and repurchase, or lease and lease back, of school district property as a method of obtaining financing for capital outlay purposes.

SEC. 2. Section 39360.1 is added to the Education Code, to read:

39360.1. Notwithstanding Section 39360, the sale by the governing board of any school district of any real property belonging to the school district or the lease by that governing board, for a term not exceeding 99 years, of any real property, together with any personal property located thereon, belonging to the school district shall not be subject to any other provision of this chapter, to Article 5 (commencing with Section 39390), or to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, if all of the following conditions are met:

(a) The property is sold or leased to another local governmental agency, or to a nonprofit corporation that is organized for the purpose of assisting one or more local governmental agencies in obtaining financing.

(b) (1) In the case of the sale of school district property pursuant to this section, the school district, as part of that same sale transaction, simultaneously repurchases the same property that is the subject of the transaction.

(2) In the case of the lease of school district property pursuant to this section, the school district, as part of that same lease transaction, simultaneously leases back, for a term that is not substantially less than the term of that lease, the same property that is the subject of the transaction.

(c) The financing proceeds obtained by the school district pursuant to the transaction described in this section are expended solely for capital outlay purposes, including the acquisition of real property for intended use as a schoolsite and the construction, reconstruction, and renovation of school facilities.

CHAPTER 367

An act to amend Section 42001.2 of the Vehicle Code, relating to air pollution.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 42001.2 of the Vehicle Code is amended to read:

42001.2. (a) Every person convicted of an infraction for a

violation of Section 27153.5 with a motor vehicle having a manufacturer's maximum gross vehicle weight rating of 6,001 or more pounds shall be punished by a fine for the first offense of not less than two hundred fifty dollars ($250) and not more than two thousand five hundred dollars ($2,500), and for a second or subsequent offense within one year of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000).

(b) Every person convicted of an infraction for a second or subsequent violation of Section 27153, or a second or subsequent violation of 27153.5, with a motor vehicle having a manufacturer's maximum gross vehicle weight rating of less than 6,001 pounds, shall be punished by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250).

(c) Notwithstanding Section 40616, the penalties in subdivision (b) apply when a person is guilty of willfully violating a written promise to correct, or willfully failing to deliver proof of correction, as prescribed in Section 40616, when an offense described in subdivision (b) was the violation for which the notice to correct was issued and the person was previously convicted of the same offense, except that costs of repair shall be limited to those specified in Section 44017 of the Health and Safety Code.

(d) Revenues collected from fines imposed under this section shall be allocated as follows: 25 percent to the prosecuting agency, 25 percent to the enforcement agency, except the Department of the California Highway Patrol, and 50 percent to the general fund of the air quality management district or air pollution control district in which the infraction occurred. If the enforcement agency is the Department of the California Highway Patrol, the revenues shall be allocated 50 percent to the prosecuting agency, and 50 percent to the district in which the infraction occurred.

(e) For the purposes of subdivisions (a), (b), and (c), a second or subsequent offense does not include an offense involving a different motor vehicle.

CHAPTER 368

An act to amend Section 98162 of, and to add Sections 98167 and 98168 to, the Public Utilities Code, relating to transit.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 98162 of the Public Utilities Code is amended to read:

98162. (a) All employees of the district are to be free from interference, coercion, and restraint in associating themselves

together for their mutual benefit in connection with their employment. They may designate representatives of their own choosing and, collectively or individually, may exercise their right of petition to the board concerning wages, hours, or other conditions of employment.

(b) Employees have the right to self-organization; to form, join, or assist labor organizations; and to bargain collectively through representatives of their own choosing for the purpose of collective bargaining.

SEC. 2. Section 98167 is added to the Public Utilities Code, to read:

98167. The obligation of the district is to bargain in good faith with a duly designated or certified labor organization and, when an agreement is reached, to execute a written collective bargaining agreement with the labor organization covering the wages, hours, and working conditions of the employees represented by the labor organization in an appropriate unit, and, thereafter, to comply with the terms of the agreement.

The obligation of the district to bargain collectively extends to all subjects of collective bargaining concerning wages, hours, working conditions, and other conditions of employment.

This section supersedes Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code if there is any conflict between this section and that chapter, but in all other situations that chapter governs.

SEC. 3. Section 98168 is added to the Public Utilities Code, to read:

98168. The district shall not require any employee, who is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations, to join or financially support any public employee labor organization as a condition of employment. However, that employee may be required, in lieu of paying periodic dues, fees, or assessments to a labor organization, to pay sums equal to those dues, fees, or assessments to a nonreligious, nonlabor charitable fund exempt from taxation under Section 501(c) (3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c) (3)), chosen by the employee from a list of at least three qualifying funds, designated in a memorandum of understanding between the district and the labor organization or, if the memorandum of understanding fails to designate the funds, then to any qualifying fund chosen by the employee. Proof of payments made pursuant to this section shall be made on a monthly basis to the district as a condition of continued exemption from the requirement of financial support to a labor organization.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 369

An act to amend Section 92.3 of the Streets and Highways Code, relating to transportation facilities.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 92.3 of the Streets and Highways Code is amended to read:

92.3. (a) The department shall do both of the following:

(1) Discontinue further water intensive freeway landscaping and use drought resistant landscaping whenever feasible, taking into consideration such factors as erosion control and fire retardant needs.

(2) Eliminate any dependency on imported water for landscaping as soon as practicable.

(b) The department shall require the use of reclaimed water for the irrigation of freeway landscaping when it finds and determines that all of the following conditions exist:

(1) The reclaimed water is of adequate quality and is available in adequate quantity for the proposed use.

(2) The proposed use of the reclaimed water is approved by the California regional water quality control board having jurisdiction.

(3) There is a direct benefit to the state highway program for the proposed use of reclaimed water.

(4) The reclaimed water is supplied by a local public agency or water public utility able to contract for delivery of water and the installation, maintenance, and repair of facilities to deliver the water.

(5) The installation of the water delivery facilities does not unreasonably increase any hazard to vehicles on the freeway or create unreasonable problems of highway maintenance and repair.

(c) The department shall report to the Legislature on or before January 1, 1988, and every three years thereafter, on the progress of the department in complying with this section. For each landscaping project subject to this section which is listed in the most recently adopted state transportation improvement program, the department shall identify the closest potable water supply and the closest reclaimed water supply, together with a statement explaining which water source was selected for irrigation purposes, and the reasons why that source was selected.

(d) In cooperation with local public agencies and water public

utilities, the department shall permit local public agencies and water public utilities to place transmission lines for reclaimed water in freeway rights-of-way for use by the local public agencies and water public utilities to transmit reclaimed water to others, when to do so will promote a beneficial use of reclaimed water and that transmission does not unreasonably interfere with use of the freeway or unreasonably increase any hazard to vehicles on the freeway, subject to paragraphs (1) to (5), inclusive, of subdivision (b) and the following additional requirements:

(1) The local public agency or water public utility holds the department harmless for any liability caused by a disruption of service to other users of the reclaimed water and will defend the department in any resulting legal action and pay any damages awarded as a result of that disruption.

(2) The department, in cooperation with the local public agency or water public utility, may temporarily interrupt service in order to add to or modify its facilities without liability, as specified in paragraph (1).

(3) The local public agency or water public utility obtains and furnishes the department an agreement by all other users of reclaimed water from the transmission system holding the department harmless for any disruption in service.

(4) The local public agency or water public utility has furnished the department a list of other reclaimed water users and information on any backup system or other source of water available for use in case of a service disruption.

(5) The local public agency is responsible for the initial cost or any relocation cost of the reclaimed water transmission lines for service to other users in the right-of-way and waives its rights to require the department to pay the relocation costs pursuant to Sections 702 and 704.

(6) The local public agency or water public utility maintains the water transmission system subject to reasonable access for maintenance purposes to be negotiated between the department and the local public agency or water public utility.

(7) The department has first priority with respect to the reclaimed water supply contracted for by the department.

(8) The local public agency or water public utility installs an automatic control system which will allow the water transmission system to be shut down in case of an emergency. The department shall have access to all parts of the transmission system for purposes of the agreement.

(9) All transmission lines are placed underground and as close as possible to the freeway right-of-way boundary or at other locations authorized by the department.

(10) The plans and specifications for the reclaimed water transmission facilities have been approved by the department prior to construction.

(e) As used in this section:

(1) "Local public agency" means any local public agency which transmits or supplies reclaimed water to others.

(2) "Water public utility" means any privately owned water corporation which is subject to the jurisdiction and control of the Public Utilities Commission.

CHAPTER 370

An act to amend Section 12414.23 of the Insurance Code, relating to insurance.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990]

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

SECTION 1. Section 12414.23 of the Insurance Code is amended to read:

12414.23. The reasonable cost of any examination authorized by this article shall be paid by the advisory organization, title insurer, underwritten title company, or controlled escrow company to be examined. A copy of any written report which is prepared as a result of a full balance sheet financial examination conducted pursuant to Section 12389, shall be provided to the entity examined within 30 days following the production of the report.

In the event any examination or review of financial statements has resulted in a requirement of, or directive to, the entity to make changes in its conduct or the business of title insurance, those requirements or directives shall be in writing, and provided to the entity.

CHAPTER 371

An act to add Section 31641.56 to the Government Code, relating to county employee retirement.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990]

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

SECTION 1. Section 31641.56 is added to the Government Code, to read:

31641.56. A member who returns to county service after having been on deferred status while rendering county service in a position excluded from membership, shall have the right to receive credit in the retirement association for all or any part of the county service he

or she rendered during the time he or she was on deferred status if he or she elects to pay, and thereafter pays, in accordance with the election, and prior to retirement, into the retirement fund an amount equal to the contributions he or she would have made to the retirement fund if he or she had not been on deferred status during the time for which he or she has elected to receive credit, computed by applying the contribution rate first applicable to him or her upon returning to county service to the aggregate compensation he or she actually received during the time he or she was in county service and for which he or she has elected to receive credit, together with regular interest on that amount from the time he or she was on deferred status until completion of payment. The payment may be made by lump sum or by installment payments over a period not to exceed the length of time for which the member has elected to receive credit, in the manner and at the times as the board may by rule prescribe. No member shall receive credit under this section for any service for which he or she has not completed payment pursuant to this section before the effective date of his or her retirement. A member who has elected to make payment in installments may complete payment by lump sum at any time prior to the effective date of his or her retirement. Any sums paid by a member pursuant to this section shall be considered to be administered as normal contributions by the member.

A member who elects to receive credit for only a part of that county service shall elect that county service latest in time and may not receive credit for any portion of that county service for which he or she does not elect to receive credit.

This section shall not be operative in any county until the time that the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in the county.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 372

An act to add Section 31639.9 to the Government Code, relating to county retirement.

[Approved by Governor July 18, 1990 Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 31639.9 is added to the Government Code, to read:

31639.9. In any county of the ninth class, as defined by Sections 28020, and 28030, as amended by Chapter 1204 of the Statutes of 1971, the board of supervisors may meet and confer pursuant to the Meyers-Milias-Brown Act with a recognized employee organization which represents county employees who are not safety members because the board of supervisors has not made Section 31469.4 applicable in the county, and endeavor to reach agreement on any conditions to be required of employees or an employee organization seeking to have Section 31469.4 made applicable, including, but not limited to, whether the employees shall be required to pay all or part of the employer's normal and cost-of-living contributions, in excess of those it would have paid if the employees had remained general members, including any increased employer normal and cost-of-living contribution rates attributable to employees who have become safety members electing to purchase credit as a safety member, pursuant to Section 31639.7, for time served in an eligible position prior to becoming a safety member.

Any contributions paid by the employees on behalf of the employer to cover the increased cost of safety retirement shall be as determined upon actuarial advice and approved by the board of retirement.

The provisions of this section shall not be applicable in any county until the board of supervisors by resolution makes the provisions applicable.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 373

An act to amend Section 5313.5 of the Public Utilities Code, relating to carriers.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 5313.5 of the Public Utilities Code is amended to read:

5313.5. Whenever the commission, after hearing, finds that any person or corporation is operating as a household goods carrier without a valid permit, or is holding itself out as such a carrier without a valid permit in contravention of Section 5314.5, the commission may impose a fine of not more than five thousand dollars ($5,000) for each violation. The commission may assess the person or corporation an amount sufficient to cover the reasonable expense of investigation incurred by the commission. The commission may also assess interest on any fine or assessment imposed, to commence on the day the payment of the fine or assessment becomes delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in the General Fund.

CHAPTER 374

An act to add Section 14115.7 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

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

SECTION 1. Section 14115.7 is added to the Welfare and Institutions Code, to read:

14115.7. (a) The department, with the assistance of the Controller, shall develop a procedure by which approved claims for services rendered may be reimbursed through a means of electronic transfer of funds to designated providers of services.

(b) The department shall make the electronic transfer of funds for the payment of approved claims for services rendered pursuant to this chapter available to all interested parties for a reasonable initial fee, and an annual subscription fee for system updating, maintenance, and support services provided to users.

(c) The department shall charge fees pursuant to subdivision (b) in an amount which shall recover, as nearly as possible, the cost of

provider enrollment, bank transaction charges, and ongoing net support costs for maintenance of the electronic transfer system.

(d) The department shall, in charging fees pursuant to subdivision (b), adjust those fees by the amount of any administrative savings due to the implementation of this section.

CHAPTER 375

An act to amend Section 12 of Chapter 1331 of the Statutes of 1989, relating to health care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990]

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

SECTION 1. Section 12 of Chapter 1331 of the Statutes of 1989 is amended to read:

Sec. 12. The State Department of Health Services may adopt emergency regulations, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Section 14105.5 of the Welfare and Institutions Code, to implement this act. The adoption of those 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 department in order to implement this act shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit a greater public review of regulations relating to the drug benefits available to Medi-Cal beneficiaries, it is necessary for this act to take effect immediately.

CHAPTER 376

An act relating to open-space, park, and recreation lands.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990]

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

SECTION 1. The Solano County Farmlands and Open Space Foundation is hereby authorized to sell a 147.33 acre parcel of land acquired pursuant to a state grant in the amount of six hundred forty thousand dollars ($640,000) appropriated from the Special Account for Capital Outlay in the Budget Act of 1988, subject to the following conditions:

(a) A conservation easement is retained ensuring that the land will remain in agricultural production.

(b) The parcel and any improvements thereon shall be sold at the fair market value as determined by appraisal.

(c) After sale, the proceeds shall be deposited into an interest-bearing account from which the principal and accumulated interest shall be expended only for the acquisition of land accomplishing the purpose of the original acquisition or providing public park and recreational opportunities.

(d) Any land proposed to be acquired by the proceeds of the sale shall be subject to review and approval by the Department of Parks and Recreation prior to the acquisition. The acquisition of replacement lands shall occur within 18 months after the sale authorized by this act. All proceeds not expended within this 18-month period shall be repaid to the Department of Parks and Recreation for deposit in the Special Account for Capital Outlay.

CHAPTER 377

An act to amend Section 40043 of the Education Code, relating to school facilities.

[Approved by Governor July 19, 1990 Filed with Secretary of State July 20, 1990]

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

SECTION 1. Section 40043 of the Education Code is amended to read:

40043. (a) The governing board of any school district shall grant without charge the use of any school facilities or grounds under its control, when an alternative location is not available, to nonprofit organizations, and clubs or associations organized to promote youth

and school activities, including, but not limited to:

(1) Girl Scouts, Boy Scouts, Camp Fire, Inc.

(2) Parent-teachers' associations.

(3) School-community advisory councils.

This subdivision shall not apply to any group which uses school facilities or grounds for fundraising activities which are not beneficial to youth or public school activities of the district, as determined by the governing board.

(b) Except as otherwise provided by law, the governing board may charge an amount not to exceed its direct costs for activities other than those specified in subdivision (a). Each governing board which decides to levy these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs.

(c) The governing board of any school district which authorizes the use of school facilities or grounds for the purpose specified in paragraph (3) of subdivision (b) of Section 40041 shall charge the church or religious denomination an amount at least equal to the district's direct costs.

(d) In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts are not expended for the welfare of the pupils of the district or for charitable purposes, a charge shall be levied for the use of school facilities or grounds which charge shall be equal to fair rental value.

(e) If any group activity results in the destruction of school property, the group may be charged for an amount necessary to repay the damages, and further use of facilities may be denied.

(f) As used in this section, "direct costs" to the district for the use of school facilities or grounds means those costs of supplies, utilities, janitorial services, services of any other district employees, and salaries paid school district employees necessitated by the organization's use of the school facilities and grounds of the district.

(g) As used in this section, "fair rental value" means the direct costs to the district, plus the amortized costs of the school facilities or grounds used for the duration of the activity authorized.

(h) Any school district granting the use of school facilities or grounds under subdivision (a) shall be liable for any injuries resulting from the negligence of the district in the ownership and maintenance of those facilities or grounds. Any group using school facilities or grounds under subdivision (a) shall be liable for any injuries resulting from the negligence of that group during the use of those facilities or grounds. The district and the group shall each bear the cost of insuring against its respective risks and shall each bear the costs of defending itself against claims arising from those risks. Notwithstanding any other provision of law, this subdivision shall not be waived. Nothing in this subdivision shall be construed to limit or affect a school district's immunity or liability under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, for injuries caused by a dangerous condition of public

property.

CHAPTER 378

An act to add Section 55002.5 to the Health and Safety Code, relating to seismic safety of buildings.

[Approved by Governor July 29, 1990. Filed with Secretary of State July 20, 1990.]

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

SECTION 1. Section 55002.5 is added to the Health and Safety Code, to read:

55002.5. Pursuant to this division, the local agency may provide financing to pay for or buy out any existing note or deed of trust which may be a lien against the real property on which an eligible building is situated, not to exceed an 80 percent loan to appraised value ratio. The local agency shall establish rules and regulations to ensure the repayment of the funds being borrowed and shall establish a minimum equity requirement that the owner of the eligible building must have in the property.

CHAPTER 379

An act to amend the heading of Chapter 5.5 (commencing with Section 13275) of Part 3 of Division 9 of, Sections 13276, 13278, and 13279 of, to amend and renumber Sections 13280 and 13281 of, to add Section 13280 to, and to repeal and add Section 13277 of, the Welfare and Institutions Code, relating to social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990]

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

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

(a) The Greater Avenues For Independence (GAIN) program is California's model for providing employment and training to the state's welfare population to afford them an opportunity for self-sufficiency.

(b) Refugees newly arriving to the country need certain services to facilitate their adjustment leading to self-sufficiency.

(c) Federal funding for refugee services requires that newly arriving refugees access services as soon as possible after the date of

entry to facilitate the acquisition of skills needed for employment and self-sufficiency.

(d) Services directed toward self-sufficiency provided under the GAIN program may not be readily accessible for newly arriving refugee adults in some counties due to delays in GAIN implementation or limitations in funding.

(e) There are existing refugee employment-directed service systems with proven ability to serve refugees.

(f) It is in the best interest of the people of the State of California to facilitate service access for newly arriving GAIN-eligible refugees in counties receiving federal funds for that purpose and to permit counties to develop a supplemental service component within the GAIN program.

SEC. 1.5. The heading of Chapter 5.5 (commencing with Section 13275) of Part 3 of Division 9 of the Welfare and Institutions Code is amended to read:

CHAPTER 5.5. COUNTY ADMINISTRATION OF REFUGEE SOCIAL SERVICES AND TARGETED ASSISTANCE FUNDS

SEC. 2. Section 13276 of the Welfare and Institutions Code is amended to read:

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 county general assistance.

(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.

SEC. 3. Section 13277 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 13277 is added to the Welfare and Institutions Code, to read:

13277. (a) The department shall notify each county board of supervisors of the availability of funds described in subdivisions (a) and (b) of Section 13276.

(b) (1) Any county administering refugee employment social services funds shall designate an agency which shall be responsible for implementing a plan for the provision of services funded by

refugee employment social services funds.

(2) Until October 1, 1990, paragraph (1) does not apply to any county on whose behalf the department is administering the refugee employment social services funds.

(c) Any county which receives funds pursuant to the Refugee Targeted Assistance program shall designate an agency which shall be responsible for implementing a plan for the provision of services funded by those funds.

(d) The plans required by subdivisions (b) and (c) shall be in accordance with subdivisions (e) and (f) and Sections 13278 and 13279.

(e) (1) Each county shall administer refugee employment social services funds and funds received pursuant to the Refugee Targeted Assistance program according to a plan or plans developed by the county and approved by the department.

(2) The plan or plans developed pursuant to paragraph (1) shall be developed in accordance with guidelines which are issued by the department and which reflect the full intent of this chapter that the funding for, and provision of, services shall lead to the earliest possible self-sufficiency for all refugee recipients of aid.

(3) Any plan or plans developed pursuant to paragraph (1) shall, at a minimum, meet all of the following requirements:

(A) 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.

(B) The plan or plans shall include a description of how social services and target 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.

(C) The plan or plans shall specifically address how services will be delivered to refugees receiving aid in each county.

(D) (i) The plan or plans shall provide for the priority consideration for funding refugee community-based organizations if they demonstrate the capacity to implement the proposed programs, which capacity shall be comparable to that of other competitors who qualify for funding.

(ii) Clause (i) does not apply to any county which uses those funds to pay for services for refugees participating in the program authorized under Article 3.2 (commencing with Section 11320) of Chapter 2 of the supplemental services component authorized by subdivision (c) of Section 13280.

(f) Any plan or plans approved pursuant to Section 11320.2 which is developed by any county which elects to utilize these funds to pay for any service provided to, or any activity performed on behalf of, any refugee participating in the program authorized by Article 3.2 (commencing with Section 11320) of Chapter 2 shall meet the requirements of subdivision (e) and Section 13280.

(g) (1) Prior to October 1, 1990, the department shall discontinue

administering refugee employment social services funds for a county pursuant to the request of the county.

(2) Commencing October 1, 1990, the department shall discontinue administering refugee employment social services funds on behalf of the county.

(h) For purposes of this section, "refugee employment social services funds" means 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 training for eligible refugees.

SEC. 4.5. Section 13278 of the Welfare and Institutions Code is amended to read:

13278. Commencing October 1, 1990, the county shall, to the extent permitted by federal law, utilize funds as described in Section 13276 to pay for the costs of 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 if 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.

SEC. 5. Section 13279 of the Welfare and Institutions Code is amended to read:

13279. (a) Employment-related and English training shall be available to recipients of Refugee Cash Assistance and refugees receiving county general 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) of Chapter 2, a portion of the funds allocated to the county in accordance with Section 13276 may be used to provide services to recipients of refugee cash assistance and refugee recipients of general assistance based on federal requirements and service needs, as outlined in the county plan developed pursuant to subdivisions (b) and (c) of Section 13277.

(b) Those funds received pursuant to the Refugee Targeted Assistance program which a county designates as funds needed to meet other locally determined extreme and unusual refugee needs, in accordance with federal requirements governing the use of targeted assistance funds, are not subject to subdivision (a).

SEC. 6. Section 13280 of the Welfare and Institutions Code is amended and renumbered to read:

13281. Refugee social services funding which is identified as Refugee Mutual Assistance Incentive funds shall be allocated by the department to eligible counties in accordance with the formula specified in Section 13276 and used to fund mutual assistance

associations to provide social adjustment and cultural orientation services.

SEC. 7. Section 13280 is added to the Welfare and Institutions Code, to read:

13280. (a) (1) In counties receiving federal refugee social services or federal targeted assistance funding, or both, the county welfare department shall include in its GAIN plan a section which specifically addresses the provision of services for refugee applicants for, and recipients of, aid pursuant to Chapter 2 (commencing with Section 11200) and the orderly transition of those applicants and recipients into the GAIN program.

(2) County staff responsible for the administration of Chapter 2 shall work in conjunction with county staff responsible for the administration of refugee programs, as well as with representatives of local mutual assistance associations, voluntary agencies and other organizations involved in refugee resettlement to ensure that the section of the GAIN plan specified in paragraph (1) reflects the needs of the refugee applicants for, and recipients of, aid under the Aid to Families with Dependent Children program, the services are delivered in accordance with the provisions of that section of the county's GAIN plan which is specified in paragraph (1), and that this transition occurs as quickly as possible within resources available to the GAIN program.

(b) The department shall annually reevaluate that section of the county's GAIN plan which is developed pursuant to paragraph (1) of subdivision (a). This reevaluation shall be made in conjunction with the county's development of its annual overall GAIN plan update and will be subject to approval of the department.

(c) If a county submits a plan for statutory reductions, as defined in subdivision (h) of Section 11320.21, the county shall assess the effects of these reductions on the provision of GAIN services to refugees and discuss these effects in its statutory reduction plan.

(d) (1) A county may maintain within the GAIN program a supplemental services component for refugees who would otherwise be temporarily excepted from the full range of GAIN services. These services shall complement regular services provided through Article 3.2 to prepare the refugee for self-sufficiency or eventual transition into the GAIN program and shall be funded through federal funds provided by the federal Office of Refugee Resettlement. County boards of supervisors may determine how the services are administered, subject to federal funding requirements.

(2) Any county which elects to implement the supplemental services component authorized by paragraph (1) shall fully describe the component in the section of its GAIN plan required by paragraph (1) of subdivision (a). The description shall specify the types of services planned to meet the special needs of refugees. Those services shall be in accordance with the department's guidelines governing the use of federal refugee social services and targeted assistance funds.

(3) The GAIN refugee supplemental employment services authorized by paragraph (1) for refugee AFDC applicants and recipients, to the extent permitted by federal law, shall meet the requirements of the Job Opportunities and Basic Skills Training program under Title IV-F of the federal Social Security Act (Part F (commencing with Section 681) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code), and shall be subject to the approval of the department.

(4) Refugee AFDC applicants and recipients who are referred for participation in the supplemental services component authorized by paragraph (1) shall participate in the component services as a condition of eligibility under Chapter 2 (commencing with Section 11200) and shall be subject to the sanctions specified by Section 11320.6 if the services meet the requirements of the Job Opportunities and Basic Skills Training program under Title IV-F of the federal Social Security Act (Part F (commencing with Section 681) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code), and are determined by the county to prepare a refugee for self-sufficiency.

(5) Refugee AFDC recipients already participating in a GAIN component provided through Article 3.2 (commencing with Section 11320) of Chapter 2 shall not be removed from that component for the purpose of participating in the supplemental component authorized by paragraph (1) of subdivision (a).

(e) Any county which elects to implement the supplemental services component authorized by paragraph (1) of subdivision (c) shall provide the supportive services described in subdivision (e) of Section 11320.3. These supportive services shall be funded with federal refugee funds. GAIN supportive services funds shall not be used to fund those supportive services.

(f) This section shall be implemented only in counties where federal refugee social services funds or targeted assistance funds, or both, are available to the county.

SEC. 8. Section 13281 of the Welfare and Institutions Code is amended and renumbered to read:

13282. 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. 9. 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the

California Constitution.

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

In order to ensure that the Refugee Cash Assistance program can fully utilize federal funding to provide refugees appropriate and needed services in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 380

An act to add Section 798.41 to the Civil Code, relating to mobilehomes.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990.]

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

SECTION 1. Section 798.41 is added to the Civil Code, to read:

798.41. (a) Except as provided in subdivision (b), whenever a homeowner is responsible for payment of gas or electric utility service, management shall disclose to the homeowner any condition by which a gas or electric meter on the homeowner's site measures gas or electric service for common area facilities or equipment, including lighting, provided that management has knowledge of the condition.

Management shall discloses this information prior to the inception of the tenancy or upon discovery and shall complete either of the following:

(1) Enter into a mutual written agreement with the homeowner for compensation by management for the cost of the portion of the service measured by the homeowner's meter for the common area facilities or equipment to the extent that this cost accrues on or after January 1, 1991.

(2) Discontinue using the meter on the homeowner's site for the utility service to the common area facilities and equipment.

(b) If the electric meter on the homeowner's site measures electricity for lighting mandated by Section 18602 of the Health and Safety Code and this lighting provides lighting for the homeowner's site, management shall not be required to comply with subdivision (a).

CHAPTER 381

An act to add Article 5.7 (commencing with Section 26577.10) to Chapter 5 of Division 21 of, and to repeal Chapter 6 (commencing with Section 4000) of Part 1 of Division 5 of the Health and Safety Code, relating to ice.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990.]

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

SECTION 1. Chapter 6 (commencing with Section 4000) of Part 1 of Division 5 of the Health and Safety Code is repealed.

SEC. 2. Article 5.7 (commencing with Section 26577.10) is added to Chapter 5 of Division 21 of the Health and Safety Code, to read:

Article 5.7. Ice

26577.10. This article applies only to ice which is intended for human consumption and is sold in packaged form. This article shall not apply to persons, hotels, restaurants, caterers, food service contractors, and theaters, that manufacture, sell, or furnish ice solely to, or for their customers in a manner that is incidental to the manufacturing, furnishing, or sale of other goods or services. This article shall not apply to ice dispensing or vending machines, except those that dispense or vend packaged ice, or to the icing of vehicles used to transport food.

26577.13. The following definitions apply to this article:

(a) "Ice" means the product obtained as the result of freezing water by natural, mechanical, or artificial means.

(b) "Natural ice" means the product obtained as the result of freezing water by natural means.

26577.15. In addition to the requirements of this article, unless ice is otherwise specifically excluded, regulations specifying good manufacturing practices applicable to food generally pursuant to Section 26209 shall be applicable to the manufacture of ice.

26577.25. No person shall make ice from, or cut natural ice from, water which does not comply with primary drinking water standards adopted by the department pursuant to Section 4023.1. No person shall sell or offer for sale for human consumption or food preservation ice made or cut in violation of this article.

26577.30. Unless water from a public water system, as defined in Section 4010.1, is used in the manufacture of ice, the manufacturer shall, on a quarterly basis, obtain from an approved laboratory, a bacterial analysis of the water used. The analysis shall be submitted to the state department, indicating whether the water is pure and wholesome.

26577.35. Any person or entity who manufactures, transports,

stores, or sells ice shall comply with all of the following:

(a) A room in which ice is manufactured shall be used for no other purpose than the manufacture of ice and the production of refrigeration, and may contain refrigeration equipment and machinery. This subdivision shall not apply to any food facility as defined in Section 27521.

(b) Ice storage or processing areas shall be maintained in a clean and sanitary condition and no noxious or offensive odors, smoking, or other air pollution shall be permitted therein.

(c) Cover tops for tank cans shall have a smooth, painted, or treated surface, and shall be cleaned daily. Water used for cleaning shall not be permitted to drip into freezing cans. Only potable water shall be used in sprays and in the thaw tanks for the removal of ice from cans. Water coverage tanks shall be covered and provided with filtered vents.

(d) Crushed, cubed, or shaved ice, intended for human consumption, shall be stored in a manner which prevents its pollution or contamination.

(e) Soil, waste, or drain pipes shall not be installed or maintained above any ice platform, loading space, ice container, ice storage room, dip tank or any place where leakage from the pipes may drop into, or upon any ice or upon any area or equipment used in the manufacture of ice, unless a safety device shall be installed under the pipes drained to an open receptacle or drain so as to prevent pollution of ice, water, or equipment used in the manufacture of the ice.

(f) Block ice-loading platforms shall be washed with water as often as necessary to keep them in a clean and sanitary condition, but not less than once each day.

(g) Block ice pullers and block ice storage-room employees shall wear rubber overshoes while on duty. The rubber overshoes shall be removed when the employee leaves the storage or tank room, except that if the rubber overshoes are not removed, they shall be cleaned and disinfected before reentering the storage or tank room. The use of street shoes without rubber overshoes in these areas is prohibited.

(h) All frozen unpackaged ice blocks intended for sale for human consumption or for the refrigeration of food products shall be washed thoroughly with potable water. Ice manufactured for industrial purposes need not be washed prior to shipping but shall be handled and stored separately from ice intended for human consumption.

(i) Ice shall be handled only with clean tongs, ice-carrying bags, scoops, or other sanitary containers, and shall not be directly handled with bare hands.

(j) Single service supplies shall be stored, dispensed, and handled in a sanitary manner and shall be used only once.

(k) Persons not directly involved in the manufacture, processing, packaging, or storing of ice, in the maintenance of facilities and equipment used therefore, or in the management, supervision, or inspection thereof, shall not be permitted in any area where ice is

manufactured, processed, packaged, or stored, unless personal cleanliness and hygienic practices are taken to prevent contamination of the product. These areas shall have signs posted to this effect.

(*l*) Bacteriological tests of the finished ice shall be conducted not less than biannually, chemical and physical tests annually, and radiological tests every four years, to insure that ice manufactured for human consumption or for the refrigeration of food products complies with the primary drinking water standards adopted by the department pursuant to Section 4023.1.

(m) No ice produced out of state shall be sold or distributed within this state unless it complies with this article.

26577.40. (a) Filter beds and any filtering equipment shall be designed to protect ice from contamination and shall be subject to periodic treatment and cleaning.

(b) All equipment and utensils used in ice production areas shall be of easily cleanable construction, shall be kept clean and in good repair, and shall be handled and stored in a sanitary manner. Materials used as ice contact surfaces shall be smooth, nontoxic, and nonabsorbent. Ice cans shall be leakproof and the inner surfaces of the containers shall be free of corrosion.

(c) Freezing tank covers shall be designed and constructed to protect ice containers from splash, drip, and other contamination, shall be easily cleanable, and shall be kept clean and in good repair. The covers shall be equipped with rings or similar devices when hooks are used for pulling. Can or tank covers, and the ledges or sides of the tank upon which the cover rests, shall be cleaned as often as necessary to keep them in a sanitary condition.

(d) Conveyor surfaces shall be of impervious material and shall protect ice from contaminants that may result from shredding, flaking, peeling, or fragmentation of the conveyor surface.

(e) Equipment lubrication shall not contaminate the ice and only food grade lubricants shall be used.

(f) All product storage and holding areas to be refrigerated shall be cleaned as often as necessary to keep them free of contamination.

(g) Air used for water agitation shall be filtered or otherwise treated to remove dust, dirt, insects, and extraneous material. Filters shall be placed upstream from the compressor and shall be easily removable for cleaning or replacement.

(h) The compressor or blower used to supply air or water agitation shall be designed to deliver oil-free air.

(i) Air lines and core or vacuum devices shall be used as needed to produce ice free of rust or other foreign materials.

26577.45. In addition to the requirements of this article, ice shall be considered a food subject to all the sanitation requirements applicable to food generally pursuant to Article 1 (commencing with Section 26500), except those provisions which specifically exclude ice.

26577.50. Any truck, vehicle, or other equipment used for

delivery, distribution, or selling ice, shall comply with all of the following:

(a) It shall be constructed and maintained to provide adequate and reasonable protection to the ice transported therein. Care shall be taken to prevent its contact with any contaminants, or other substances which would take the ice out of compliance with the drinking water standards prescribed by this article.

(b) All cubed, crushed, or shaved ice shall be kept in clean receptacles or containers which shall be kept covered while the vehicle is in motion.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 382

An act to amend Sections 1952 and 1952.3 of the Code of Civil Procedure, and to amend Sections 1417 and 1417.3 of the Penal Code, relating to courts.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990.]

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

SECTION 1. Section 1952 of the Code of Civil Procedure is amended to read:

1952. (a) The clerk shall retain in his or her custody any exhibit or deposition introduced in the trial of a civil action or proceeding or filed in the action or proceeding until the final determination thereof or the dismissal of the action or proceeding, except that the court may order the exhibit or deposition returned to the respective party or parties at any time upon oral stipulation in open court or by written stipulation by the parties or for good cause shown.

(b) No exhibit or deposition shall be ordered destroyed or otherwise disposed of pursuant to this section where a party to the action or proceeding files a written notice with the court requesting the preservation of any exhibit or deposition for a stated time, but not to exceed one year.

(c) Upon the conclusion of the trial of a civil action or proceeding at which any exhibit or deposition has been introduced, the court

shall order that the exhibit or deposition be destroyed or otherwise disposed of by the clerk. The operative destruction or disposition date shall be 60 days following final determination of the action or proceeding. Final determination includes final determination on appeal. Written notice of the order shall be sent by first-class mail to the parties by the clerk.

(d) Upon the conclusion of any posttrial hearing at which any exhibit or deposition has been introduced, the court shall order that the exhibit or deposition be destroyed or otherwise disposed of by the clerk. The operative date of destruction or disposition shall be 60 days following the conclusion of the hearing, or if an appeal is taken, upon final determination of the appeal. Written notice of the order shall be sent by first-class mail to the parties by the clerk.

SEC. 2. Section 1952.3 of the Code of Civil Procedure is amended to read:

1952.3. Notwithstanding any other provision of the law, the court, on its own motion, may order the destruction or other disposition of any exhibit or deposition introduced in the trial or posttrial hearing of a civil action or proceeding or filed in the action or proceeding that, if appeal has not been taken from the decision of the court in the action or proceeding, remains in the custody of the court or clerk five years after time for appeal has expired, or, if appeal has been taken, remains in the custody of the court or clerk five years after final determination thereof, or that remains in the custody of the court or clerk for a period of five years after any of the following:

(a) A motion for a new trial has been granted and a memorandum to set the case for trial has not been filed, or a motion to set for trial has not been made within five years.

(b) The dismissal of the action or proceeding.

In addition, the court on its own motion, may order the destruction or other disposition of any exhibit or deposition that remains in the custody of the court or clerk for a period of 10 years after the introduction or filing of the action or proceeding if, in the discretion of the court, the exhibitor deposition should be disposed of or destroyed.

The order shall be entered in the register of actions of each case in which the order is made.

No exhibit or deposition shall be ordered destroyed or otherwise disposed of pursuant to this section if a party to the action or proceeding files a written notice with the court requesting the preservation of any exhibit or deposition for a stated time, but not to exceed one year.

Any sealed file shall be retained for at least two years after the date on which destruction would otherwise be authorized pursuant to this section.

SEC. 3. Section 1417 of the Penal Code is amended to read:

1417. All exhibits which have been introduced or filed in any criminal action or proceeding shall be retained by the clerk of the court who shall establish a procedure to account for the exhibits

properly, subject to Sections 1417.2 and 1417.3 until final determination of the action or proceedings and the exhibits shall thereafter be distributed or disposed of as provided in this chapter.

SEC. 4. Section 1417.3 of the Penal Code is amended to read:

1417.3. (a) At any time prior to the final determination of the action or proceeding, exhibits offered by the state or defendant shall be returned to the party offering them by order of the court when an exhibit poses a security, storage, or safety problem, as recommended by the clerk of the court. If an exhibit by its nature is severable the court shall order the clerk to retain a portion of the exhibit not exceeding three pounds by weight or one cubic foot by volume and shall order the return of the balance of the exhibit to the district attorney. The clerk, upon court order, shall substitute a full and complete photographic record of any exhibit or part of any exhibit returned to the state under this section. The party to whom the exhibit is being returned shall provide the photographic record.

(b) Exhibits toxic by their nature that pose a health hazard to humans shall be introduced to the court in the form of a photographic record and a written chemical analysis certified by competent authority. Where the court finds that good cause exists to depart from this procedure, toxic exhibits may be brought into the courtroom and introduced. However, following introduction of the exhibit, the person or persons previously in possession of the exhibit shall take responsibility for it and the court shall not be required to store the exhibit.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 383

An act to amend Section 653m of the Penal Code, relating to crimes.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990]

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

SECTION 1. Section 653m of the Penal Code is amended to read:

653m. (a) Every person who with intent to annoy telephones another and addresses to or about the other person any obscene language or addresses to the other person any threat to inflict injury to the person or property of the person addressed or any member of his or her family, is guilty of a misdemeanor.

(b) Every person who makes repeated telephone calls with intent to annoy another person at his or her residence, is, whether or not conversation ensues from making the telephone call, guilty of a misdemeanor. Nothing in this subdivision shall apply to telephone calls made in good faith.

(c) Any offense committed by use of a telephone as herein set out may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received.

(d) Subdivision (a) or (b) is violated when the person acting with intent to annoy makes a telephone call requesting a return call and performs the acts prohibited under subdivision (a) or (b) upon receiving the return call.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 384

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

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990]

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

SECTION 1. The City of Long Beach is hereby authorized to convert Hudson Park, which was acquired with a grant of state funds appropriated in Item 227 of the Budget Act of 1977 (Chapter 219 of the Statutes of 1977) and Item 222 of the Budget Act of 1978 (Chapter 359 of the Statutes of 1978) and disbursed pursuant to Agreement Number 50-74-007, and developed with a grant of state funds appropriated in Item 3790-101-722 (a) (148) of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985) and disbursed pursuant to Agreement Number 84-03-182, to other uses, subject to the following conditions:

(a) The city shall acquire and develop, or cause to be developed, substitute parklands and recreation facilities of equal or greater fair market value than the converted park and generally usable by the same persons who use Hudson Park.

(b) The substitute park shall be open for public use no later than three years after the closure of Hudson Park.

(c) The city shall develop a plan to mitigate the loss of the public recreational facilities for the three-year period, subject to the approval of the Department of Parks and Recreation.

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 necessary agreements between the City of Long Beach and the United States relative to the land transfer authorized by this act may commence as quickly as possible, thus permitting the benefits of this act to be quickly realized, it is necessary that this act take effect immediately.

CHAPTER 385

An act to amend Section 1656.1 of, and to add Section 1668.5 to, the Insurance Code, relating to insurance.

[Approved by Governor July 19, 1990 Filed with Secretary of State July 20, 1990.]

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

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

1656.1. (a) Every application for a license filed by a corporation shall contain the names and addresses of all stockholders owning 10 percent or more of the corporation's stock and of all officers and directors of the corporation.

(b) Every such licensed corporation shall file a written notice with the commissioner of all changes, except address changes, of its stockholders who own 10 percent or more of the corporation's stock and of all officers and directors of the corporation.

(c) The commissioner may require the application or notice or both to also disclose additional information necessary to determine whether the applicant or licensee is in compliance with Section 1668.5.

SEC. 2. Section 1668.5 is added to the Insurance Code, to read:

1668.5. (a) The commissioner may deny an application for any license issued pursuant to this chapter, and may suspend or revoke the permanent license of any organization licensed pursuant to this chapter as authorized by Section 1738, if the applicant or holder of the permanent license is an organization and a controlling person of the organization is any of the following:

(1) The controlling person has previously engaged in a fraudulent practice or act or has conducted any business in a dishonest manner.

(2) The controlling person has shown incompetency or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with him or her to the danger of loss.

(3) The controlling person has knowingly misrepresented the terms or effect of an insurance policy or contract.

(4) The controlling person has failed to perform a duty expressly enjoined upon him or her by a provision of this code or has committed an act expressly forbidden by a provision of this code.

(5) The controlling person has been convicted of any of the following:

(A) A felony.

(B) A misdemeanor denounced by this code or other laws regulating insurance.

(C) A public offense having as one of its necessary elements a

fraudulent act or an act of dishonesty in acceptance, custody, or payment of money or property.

A judgment, plea, or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(6) The controlling person has aided or abetted any person in an act or omission that would constitute grounds for the suspension, revocation, or refusal of a license or certificate issued under this code to the person aided or abetted.

(7) The controlling person has permitted any person in his or her employ to violate any provision of this code.

(8) The controlling person has violated any provision of law relating to conduct of business that could lawfully be done only under authority conferred by a license under this chapter.

(b) As used in this section, "controlling person" means a person who possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the organization, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, including, but not limited to, power that is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, more than 10 percent of the voting securities of the organization. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may, after furnishing all persons in interest notice and opportunity to be heard, determine that control exists in fact, notwithstanding the absence of a presumption to that effect.

CHAPTER 386

An act to add and repeal Section 14132.76 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990.]

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

SECTION 1. Section 14132.76 is added to the Welfare and Institutions Code, to read:

14132.76. (a) (1) Notwithstanding any provision of this chapter, the department shall establish a pilot program under which no treatment authorization requests shall be required for the provision of prosthetic or orthotic devices, including replacement or repair of these devices, which does not exceed five hundred dollars ($500).

(2) The purpose of the pilot program shall be the determination

of cost savings to the Medi-Cal program.

(b) (1) The department shall review the effectiveness of the pilot program implemented pursuant to subdivision (a) and report its conclusions to the appropriate committees of the Legislature by December 31, 1992.

(2) The review and report required by paragraph (1) shall also address the potential effectiveness of eliminating the use of treatment authorizations in the containment of Medi-Cal costs.

(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.

CHAPTER 387

An act to amend Section 85201 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990.]

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

SECTION 1. Section 85201 of the Government Code is amended to read:

85201. (a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) Upon the establishment of an account, the name of the financial institution, the specific location, and the account number shall be filed with the commission within 10 days.

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

(e) All campaign expenditures shall be made from the account.

SEC. 2. The Legislature declares that the amendments to Section 85201 of the Government Code by Section 1 of this act are not intended to reenact provisions that may have been held unconstitutional or otherwise modified by the courts prior to the effective date of this act. The Legislature also declares that any court judgment shall have the same force and effect on the validity of Section 85201 of the Government Code as amended by this act as the judgment had on that section immediately prior to the amendments made by this act.

SEC. 3. The Legislature finds and declares that this act furthers

the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 388

An act to amend Section 1596.792 of the Health and Safety Code, relating to child care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990.]

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) No more than 12 children are receiving care in the same place 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.

(i) Any school parenting program or adult education child care program which satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program which operates only one day per week for no more than four hours on that one day.

(k) Any child day care program which offers temporary child care services to parents and which satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(*l*) Any program which provides activities for children of an instructional nature in a classroom-like setting and which satisfies both of the following:

(1) Is operated only between the dates of June 15 and September 15.

(2) Offers any number of sessions during the period specified in paragraph (1) which when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to eliminate the requirement of licensing child care facilities which have previously been exempt and would otherwise be subject to licensure, it is necessary that this act take effect immediately.

CHAPTER 389

An act to amend Sections 60230, 60305, 60306, 60315, 60316, and 60317 of, and to add Sections 60027, 60028, 60224, 60225, 60226, 60301, and 60317.5 to, the Water Code, relating to water replenishment districts.

[Approved by Governor July 19, 1990 Filed with Secretary of State July 20, 1990.]

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

SECTION 1. Section 60027 is added to the Water Code, to read:

60027. "Replenishment assessment" means any assessment levied pursuant to Part 6 (commencing with Section 60300).

SEC. 2. Section 60028 is added to the Water Code, to read:

60028. "Contaminant" means any physical, chemical, biological, or radiological substance, or substances, of a concentration which, if contained in water, will cause a significant impairment to a domestic drinking water supply.

SEC. 3. Section 60224 is added to the Water Code, to read:

60224. For the purpose of protecting and preserving the groundwater supplies within the district for beneficial uses, a district may take any action, within the district, including, but not limited to, capital expenditures and legal actions, which in the discretion of the board is necessary or desirable to accomplish any of the following:

(a) Prevent contaminants from entering the groundwater supplies of the district, whether or not the threat is immediate.

(b) Remove contaminants from the groundwater supplies of the district.

(c) Determine the existence, extent, and location of contaminants in, or which may enter, the groundwater supplies of the district.

(d) Determine persons, whether natural persons or public entities, responsible for those contaminants.

(e) Perform or obtain engineering, hydrologic, and scientific studies for any of the foregoing purposes.

SEC. 4. Section 60225 is added to the Water Code, to read:

60225. A district may take any action outside the district, including, but not limited to, those set forth in Section 60224, provided the board finds both of the following:

(a) The action is reasonably necessary to protect groundwater supplies within the district.

(b) There is a direct, material relationship between the groundwater supply where the action is to be taken and the groundwater supply within the district.

SEC. 4.5. Section 60226 is added to the Water Code, to read:

60226. A district may sue and recover the amount of any district expenditures under Section 60224 from the person or persons responsible for the contaminants causing the expenditures. In

proceeding under any state or federal law, a district may recover those expenses from responsible persons and governmental insurance funds. In any action the district, if successful, may recover reasonable attorney's fees and court costs, as determined by the court. The right or power to recover damages shall not be deemed an adequate remedy at law precluding use of injunctive relief under this section or any other provision of this division or any other statute. In any action for injunctive relief relating to contaminants, no bond shall be required of a district as a condition to granting a preliminary injunction.

SEC. 5. Section 60230 of the Water Code is amended to read:

60230. For the purposes of replenishing the groundwater supplies within the district, a district shall have power:

(a) To have perpetual succession.

(b) To sue and be sued, except as otherwise provided in this division or by law, in all actions and proceedings in all courts and tribunals.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise, or lease, to hold, use and enjoy, and to lease, convey or dispose of, real and personal property of every kind, within or without the district, necessary or convenient to the full exercise of its power.

(e) Within or outside of the district to construct, purchase, lease, or otherwise acquire, and to operate and maintain necessary waterworks and other works, machinery and facilities, canals, conduits, waters, water rights, spreading grounds, lands, rights and privileges useful or necessary to replenish the underground water basin within the district, or to augment the common water supplies of the district, including, but not limited to, the exercise of any power under Section 60224.

(f) For the common benefit of the district, to store water in underground water basins or reservoirs within or outside of the district, to appropriate and acquire water and water rights within or outside of the district, to import water into the district, and to conserve water within or outside of the district.

(g) To carry out the purposes of this division, to commence, maintain, intervene in, defend and compromise, in the name of the district, or otherwise, and to assume the costs and expenses of any and all actions and proceedings now or hereafter begun to determine or adjudicate all or a portion of the rights to divert, extract, or use waters within the district, or within any segments thereof or subbasins therein, as between owners of or claimants to those rights, to prevent any interference with water or water rights used or useful to the lands, inhabitants, owners, operators, or producers within the district, or to prevent the diminution of the quantity or quality of the water supply of the district, or to prevent unlawful exportation of water from the district.

(h) To exercise the right of eminent domain to take any property necessary to supply the district or any portion thereof with

replenishment water, including, but not limited to, the exercise of any power under Section 60224, except that the right of eminent domain may not be exercised with respect to (1) water and water rights already devoted to beneficial use, and (2) property (other than water and water rights) already appropriated to public use unless the taking be for a more necessary public use than that to which the property is already appropriated; provided that the district in exercising that power shall in addition to the damage for taking, injuring, or destruction of property also pay the cost of removal, reconstruction, or relocation of any structure, including, but not limited to, railways, mains, pipes, conduits, wires, cables, towers, or poles of any public utility which is required to be removed to a new location. No use by a district of property owned, at the time the action to condemn is brought, by an existing agency having powers to provide for the replenishment of groundwater, shall constitute a more necessary public use than the use to which the property is already appropriated.

A district shall not exercise the right of eminent domain to acquire property outside the boundaries of the principal county in which the district is situated unless it first obtains the consent thereto of the board of supervisors of the county in which the property is located.

(i) To act jointly with or cooperate with the United States or any agency thereof, and cooperate and act jointly with the state, or any county or agency thereof, or any political subdivision or district therein, including flood control districts, public and private corporations, and any person, to the end that the purposes and activities of the district may be fully and economically performed.

(j) To cause assessments and charges to be levied as provided in this division to accomplish the purposes of this division and to maintain such reserve funds for the future purchase of water for replenishment purposes as may be authorized to be levied.

(k) To make contracts, employ labor, and do all acts necessary for the full exercise of the foregoing powers.

(*l*) To carry on technical and other investigations of all kinds, necessary to carry out the provisions of this division, and for this purpose the district shall have the right of access through its authorized representative to all properties within the district.

(m) To borrow money and incur indebtedness and to issue bonds or other evidences of that indebtedness; to refund or retire any indebtedness or lien that may exist against the district or property thereof; to issue warrants to pay the formation expenses of the district, which may bear interest at a rate not exceeding 6 percent a year from the date of issue until funds are available to pay the warrants, and which formation expenses may include fees of attorneys and others employed to conduct the formation proceedings, but shall not include the expenses of holding and conducting the formation election.

(n) To cause taxes to be levied, in the manner provided in this division, for the purpose of paying any obligation of the district,

including its formation expenses and any warrants issued therefor.

(o) To fix the rates at which water shall be sold for replenishment purposes, and to establish different rates for different classes of service or conditions of service, provided the rates shall be uniform for like classes and conditions of service.

(p) To fix the terms and conditions of any contract under which producers may agree voluntarily to use replenishment water from a nontributary source in lieu of groundwater, and to that end a district may become a party to the contract and pay from district funds that portion of the cost of the replenishment waters as will encourage the purchase and use of that water in lieu of pumping so long as the persons or property within the district are directly or indirectly benefited by the resulting replenishment.

SEC. 6. Section 60301 is added to the Water Code, to read:

60301. If the district has received an engineering evaluation as to any matter within the powers of the district under Section 60224 and containing proposed action or alternate actions and estimated costs, including engineering and legal fees and expenses and district overhead, the board may, not later than the second Tuesday in February of each year, order the inclusion in the engineering survey and report referred to in Section 60300 of a statement of the proposed action or alternate actions and those estimated costs.

SEC. 7. Section 60305 of the Water Code is amended to read:

60305. On or before the second Tuesday in March of each year, and provided the survey and report called for by Section 60300 has been made, the board, by resolution, shall declare whether funds shall be raised to purchase water for replenishment during the next ensuing fiscal year and whether the funds shall be raised either by (a) a water charge, as provided in Chapter 2 (commencing with Section 60245) of Part 5, (b) a general assessment, as provided in Chapter 3 (commencing with Section 60250) of Part 5, (c) a replenishment assessment as provided in this chapter, or (d) a combination of any two or more of the foregoing, and whether the funds so to be raised, whether by a water charge, a general assessment, a replenishment assessment or a combination of those means, will benefit, directly or indirectly, all of the persons or real property and improvements within the district. The resolution shall also declare whether funds shall be raised to remove contaminants from groundwater supplies during the next ensuing fiscal year or to exercise any other power under Section 60224, and whether funds for that purpose shall be raised by a replenishment assessment as provided in this chapter, with a like statement of benefit.

SEC. 8. Section 60306 of the Water Code is amended to read:

60306. If the board, by resolution, determines that all or a portion of the funds needed to purchase replenishment water, or to remove contaminants from the groundwater supplies of the district, or to exercise any other power under Section 60224, shall be raised by the levy of a replenishment assessment, then the board shall immediately publish a notice that a public hearing will be held on the

second Tuesday of April for the purpose of determining whether and to what extent the estimated costs thereof for the ensuing year shall be paid for by a replenishment assessment. The notice shall contain a copy of the board's resolution, the time and place of the hearing, and an invitation to all interested parties to attend and be heard in support of or opposition to the proposed assessment, the engineering survey and report, and the board's determination, and shall invite inspection of the engineering survey and report upon which the board acted. The notice shall be published in each affected county pursuant to Section 6061 of the Government Code, at least 10 days before the hearing date.

SEC. 9. Section 60315 of the Water Code is amended to read:

60315. Upon completing the hearing, but no later than the second Tuesday in May, the board shall, by resolution, find the following:

(a) The annual overdraft for the preceding water year.

(b) The estimated annual overdraft for the current water year.

(c) The estimated annual overdraft for the ensuing water year.

(d) The accumulated overdraft as of the last day of the preceding water year.

(e) The estimated accumulated overdraft as of the last day of the current water year.

(f) The total production of groundwater from the groundwater supplies within the district during the preceding water year.

(g) The estimated total production of groundwater from the groundwater supplies within the district for the current water year.

(h) The estimated total production of groundwater from the groundwater supplies within the district for the ensuing water year.

(i) The changes during the preceding water year in the pressure levels or piezometric heights of the groundwater contained within pressure-level areas of the district, and the effects thereof upon the groundwater supplies within the district.

(j) The estimated changes during the current water year in the pressure levels or piezometric heights of the groundwater contained within pressure-level areas of the district, and the estimated effects thereof upon the groundwater supplies within the district.

(k) The quantity of water which should be purchased for the replenishment of the groundwater supplies of the district during the ensuing water year.

(*l*) The source and estimated cost of water available for the replenishment.

(m) The estimated costs of replenishing the groundwater supplies with the water so purchased.

(n) The estimated costs of purchasing, in water years succeeding the ensuing water year, that portion of the quantity of water which should be purchased for the replenishment of the groundwater supplies of the district during the ensuing water year, but which is estimated to be unavailable for purchase during the ensuing water year; estimated costs shall be based on the estimated price of water for replenishment purposes during the ensuing water year.

(o) The estimated rate of the replenishment assessment required to be levied upon the production of groundwater from the groundwater supplies within the district during the ensuing fiscal year for the purposes of accomplishing the replenishment and providing a reserve fund to purchase in future years, when available, that portion of the quantity of water which should be purchased for the replenishment of the groundwater supplies of the district during the ensuing water year, but which is estimated to be unavailable for purchase during that ensuing water year.

(p) Whether any contaminants should be removed from groundwater supplies during the ensuing fiscal year, and whether any other actions under Section 60224 should be undertaken during the ensuing fiscal year, the estimated costs thereof, and the estimated additional rate of replenishment assessment required to be levied upon the production of groundwater from the groundwater supplies within the district during the ensuing fiscal year for those purposes.

(q) Whether any program for removal of contaminants or other actions under Section 60224 should be a multiyear program or is a continuation of a previously authorized multiyear program.

SEC. 10. Section 60316 of the Water Code is amended to read:

60316. Based on the findings pursuant to Section 60315, the board shall, by resolution, determine all of the following:

(a) What portion, if any, of the estimated cost of purchasing water for replenishment for the ensuing fiscal year shall be paid for by a replenishment assessment.

(b) What portion, not exceeding 25 percent of the above portion, of the estimated cost of purchasing in the future that quantity of water which should be purchased during the ensuing water year, but which is estimated to be unavailable during that year, shall be raised by a replenishment assessment.

(c) What portion of the estimated costs of removing contaminants from groundwater supplies and of taking other actions under Section 60224 during the ensuing fiscal year shall be paid for by a replenishment assessment.

SEC. 11. Section 60317 of the Water Code is amended to read:

60317. If the board determines that a replenishment assessment shall be levied upon the production of groundwater from groundwater supplies within the district during the ensuing fiscal year, immediately following the making of that determination the board shall levy a replenishment assessment on the production of groundwater from the groundwater supplies within the district during the fiscal year commencing on July 1st next, and the replenishment assessment shall be fixed by the board at a uniform rate per acre-foot of groundwater so produced. The producers of that groundwater shall pay the replenishment assessment to the district at the times and in the manner provided in this division. That part of the assessment levied pursuant to the determination provided in subdivision (c) of Section 60316, exclusive of any part thereof for district administrative and overhead expenses, shall not exceed 50

percent of the average assessment levied for the current and four preceding fiscal years pursuant to determinations under subdivisions (a) and (b) of Section 60316, exclusive of any part thereof for district administrative and overhead expenses.

SEC. 12. Section 60317.5 is added to the Water Code, to read:

60317.5. Except as set forth in this section, nothing in this division prevents the use of district funds from any source for powers and functions authorized under this division. That part of a replenishment assessment levied pursuant to determinations under subdivisions (a) and (b) of Section 60316 shall not be utilized for the direct costs of prevention and removal of contaminants under subdivisions (a) and (b) of Section 60224. Any part of a replenishment assessment levied pursuant to a determination under subdivision (c) of Section 60316 which is not expended may be obligated and expended for other uses authorized by Section 60224 after hearing and findings pursuant to Sections 60306 and 60315. Any part of a replenishment assessment levied pursuant to a determination under subdivision (c) of Section 60316 which remains unexpended and unobligated for five fiscal years after the last obligation thereof, or any shorter period which the board may by resolution determine, shall be deemed to have been levied for other costs and expenses for which a replenishment assessment is authorized under this division. Funds from a replenishment assessment, although restricted as to use, may be loaned for any use for which and within the monetary limits for which, such an assessment has been levied. Any such loan shall be for a period not longer than 18 months and shall bear interest, as nearly as practicable in the discretion of the board, at the rate which those funds might have otherwise been invested at the time of the loan.

CHAPTER 390

An act to add Section 429 to the Penal Code, relating to telephone corporations.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990.]

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

SECTION 1. (a) In enacting this act, the Legislature finds and declares that certain providers of telecommunications services intentionally fail to collect and remit the following fees and surcharges as required by the Public Utilities Code:

(1) The annual fee established by the Public Utilities Commission pursuant to Section 431 of the Public Utilities Code.

(2) The surcharge to service rates authorized by subdivision (c) of Section 879 of the Public Utilities Code to meet the funding

requirements for the provision of universal telephone service pursuant to the Moore Universal Telephone Service Act (Article 8 (commencing with Section 871) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code).

(3) The fees charged by the Public Utilities Commission for the filing of an application for a certificate of public convenience and necessity, or for the mortgage, lease, transfer, or assignment thereof, pursuant to subdivision (a) of Section 1904 of the Public Utilities Code.

(4) The surcharge established by the Public Utilities Commission to recover the costs of providing telecommunications devices for the deaf and severely hearing impaired, and to recover the costs of providing specialized or supplemental telephone communications equipment to disabled persons, pursuant to subdivision (d) of Section 2881 of the Public Utilities Code.

(b) The Legislature further finds and declares that:

(1) It is in the best interests of the state's telecommunications consumers that the programs and services which are supported by these fees and surcharges be completely funded as mandated by the Public Utilities Code.

(2) Providers of telecommunications services that intentionally do not collect and remit these fees and surcharges thereby gain an unfair competitive advantage over the majority of the providers that do collect and remit the moneys in compliance with the mandates of the law.

(3) The existing provisions of state law are ineffective in ensuring compliance.

(4) The criminal penalties established by this act are not intended to impose liability or additional obligations on providers of telecommunications services that rely in good faith on other corporations regulated by the Public Utilities Commission for the collection or remittance of these fees and surcharges.

(c) Therefore, it is the intent of the Legislature to provide misdemeanor criminal penalties for the intentional failure to collect and remit the fees and surcharges.

SEC. 2. Section 429 is added to the Penal Code, to read:

429. Any provider of telecommunications services in this state that intentionally fails to collect or remit, as may be required, the annual fee imposed pursuant to Section 431 of the Public Utilities Code, the universal telephone service surcharge imposed pursuant to Section 879 or 879.5 of the Public Utilities Code, the fee for filing an application for a certificate of public convenience and necessity as provided in Section 1904 of the Public Utilities Code, or the surcharge imposed pursuant to subdivision (d) of Section 2881 of the Public Utilities Code, whether imposed on the provider or measured by the provider's service charges, is guilty of a misdemeanor.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district

will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 391

An act to amend Section 48293 of the Education Code, relating to education.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990.]

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

SECTION 1. Section 48293 of the Education Code is amended to read:

48293. (a) Any parent, guardian, or other person having control or charge of any pupil who fails to comply with this chapter, unless excused or exempted therefrom, is guilty of an infraction and shall be punished as follows:

(1) Upon a first conviction, by a fine of not more than one hundred dollars ($100).

(2) Upon a second conviction, by a fine of not more than two hundred fifty dollars ($250).

(3) Upon a third or subsequent conviction, if the person has willfully refused to comply with this section, by a fine of not more than five hundred dollars ($500). In lieu of imposing the fines prescribed in paragraphs (1) (2), and (3), the court may order the person to be placed in a parent education and counseling program.

(b) A judgment that a person convicted of an infraction be punished as prescribed in subdivision (a) may also provide for the payment of the fine within a specified time or in specified installments, or for participation in the program. A judgment granting a defendant time to pay the fine or prescribing the days of attendance in a program shall order that if the defendant fails to pay the fine, or any installment thereof, on the date that it is due, or fails to attend a program on a prescribed date, he or she shall appear in court on that date for further proceedings. Willful violation of the order is punishable as contempt.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 392

An act to amend Section 52.1 of the Civil Code, relating to civil rights.

[Approved by Governor July 20, 1990. Filed with Secretary of State July 20, 1990]

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

SECTION 1. Section 52.1 of the Civil Code is amended 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 damages, injunctive relief, 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 damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award the petitioner or plaintiff 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.

CHAPTER 393

An act to amend Section 14627 of the Government Code, relating to state agencies.

[Approved by Governor July 20, 1990 Filed with Secretary of State July 20, 1990]

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

SECTION 1. Section 14627 of the Government Code is amended to read:

14627. With the approval of the department, state agencies may install and operate toll-free telephone lease lines to provide access by the public and local governmental agencies. The department shall adopt guidelines for the use of toll-free lease lines by state agencies as are necessary to promote the efficient use thereof. Following approval of the department, the toll-free telephone number shall be published at least once in the California Regulatory Notice Register.

The information which is made available on toll-free lease lines shall be accessible by both tone dial and rotary dial telephones.

CHAPTER 394

An act to amend Section 8283 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 20, 1990 Filed with Secretary of State July 20, 1990]

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

SECTION 1. Section 8283 of the Public Utilities Code is amended to read:

8283. (a) The commission shall require each electric, gas, and telephone corporation with gross annual revenues exceeding twenty-five million dollars ($25,000,000) and their commission-regulated subsidiaries and affiliates, to submit annually, a detailed and verifiable plan for increasing women and minority business enterprise procurement in all categories.

(b) These annual plans shall include short- and long-term goals and timetables, but not quotas, and shall include methods for encouraging both prime contractors and grantees to engage women

and minority business enterprises in subcontracts in all categories which provide subcontracting opportunities. For the purposes of this article only, "prime contractor" includes a holding company or affiliate of the corporation when engaged in transactions with the corporation, or with the corporation's commission-regulated subsidiaries and affiliates which provide contracting opportunities within this state.

(c) The commission shall establish guidelines for all of the entities described in subdivision (a) to be utilized in establishing programs pursuant to this article.

(d) Each entity described in subdivision (a) shall furnish an annual report to the commission regarding the implementation of programs established pursuant to this article in such form as the commission shall require, and at the time that the commission shall annually designate.

(e) The commission shall provide an annual report to the Legislature on September 1 of each year, on the progress of activities undertaken by the entities described in subdivision (a) pursuant to this article in the implementation of women and minority business enterprise development programs. The commission shall recommend a program for carrying out the policy declared in this article, together with recommendations for legislation that it deems necessary or desirable to further that policy.

CHAPTER 395

An act to add Chapter 18.5 (commencing with Section 22433) to Division 8 of the Business and Professions Code, relating to business practices.

[Approved by Governor July 20, 1990 Filed with Secretary of State July 20, 1990]

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

SECTION 1. Chapter 18.5 (commencing with Section 22433) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 18.5. SIMULATED CHECKS

22433. (a) As used in this section, "simulated check" means any document that is not currency or a check, draft, note, bond, or other negotiable instrument but that, because of its appearance, has the tendency to mislead or deceive any person viewing it into believing that it, in fact, represents currency or a negotiable instrument that can be deposited in a bank or used for third party payments. "Simulated check" does not include a nonnegotiable check, draft, note, or other instrument that is used for soliciting orders for the

purchase of checks, drafts, notes, bonds, or other instruments, and that is clearly marked as a sample, specimen, or nonnegotiable.

(b) No person shall produce, advertise, offer for sale, sell, distribute, or otherwise transfer for use in this state any simulated check unless the document bears the phrase "THIS IS NOT A CHECK", diagonally printed in clear and conspicuous type on the front of the document.

(c) The Attorney General may bring an action to enjoin a violation of this section, and to recover a civil penalty of not more than one hundred dollars ($100) for each violation of this section. A violation of this section may be enjoined without proof that any person has, in fact, been injured or damaged by the violation.

CHAPTER 396

An act to amend Section 5538 of, and to add Chapter 3.9 (commencing with Section 5800) to Division 3 of, the Business and Professions Code, relating to interior designers.

[Approved by Governor July 20, 1990. Filed with Secretary of State July 20, 1990.]

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

SECTION 1. Chapter 3.9 (commencing with Section 5800) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 3.9. INTERIOR DESIGNERS

5800. As used in this chapter:

(a) "Certified interior designer" means a person who prepares and submits nonstructural or nonseismic plans consistent with Section 5805 and Section 5538 to local building departments which are of sufficient complexity so as to require the skills of a licensed contractor to implement them, and who engages in programming, planning, designing, and documenting the construction and installation of nonstructural or nonseismic elements, finishes and furnishings within the interior spaces of a building, and has demonstrated by means of education, experience and examination, the competency to protect and enhance the health, safety, and welfare of the public.

(b) An "interior design organization" means a professional society or organization of interior designers with a membership of at least 10 percent of the interior designers in the state for at least the last five consecutive years.

5801. A certified interior designer may obtain a stamp from an interior design organization which shall include a number which uniquely identifies and bears the name of that certified interior

designer. The stamp certifies that the interior designer has provided the interior design organization with evidence of any of the following:

(a) He or she is a graduate of a four or five-year accredited interior design degree program, and has two years of diversified interior design experience.

(b) He or she has completed a three-year accredited interior design certificate program, and has completed three years of diversified interior design experience.

(c) He or she has a combination of interior design education and diversified interior design experience for a total of eight years, and has passed an interior design examination approved by that interior design organization.

5802. (a) All drawings, specifications, or documents prepared for submission to any government regulatory agency by any certified interior designer, or under his or her supervision shall be affixed by a stamp, as specified in Section 5801, and signed by that certified interior designer.

(b) All such documents shall be identified as interior design documents, which are not architectural or engineering documents.

5803. A certified interior designer, as defined in this chapter, is exempt from Chapter 9 (commencing with Section 7000) of Division 3 insofar as he or she is designing systems for work to be performed by a licensed contractor.

5804. It is an unfair business practice for any certified interior designer or any other person to advertise or put out any sign or card or other device, including any stamp or seal, or to represent to the public through any print or electronic media, that he or she is "state certified" to practice interior design, or to use any other words or symbols that represent to the public that he or she is so certified.

5805. Nothing in this chapter shall preclude certified interior designers or any other person from submitting interior design plans to local building officials, except as provided in Section 5538. In exercising discretion with respect to the acceptance of interior design plans, the local building official shall reference the Uniform Building Code.

SEC. 2. Section 5538 of the Business and Professions Code is amended to read:

5538. This chapter does not prohibit any person from furnishing either alone or with contractors, if required by Chapter 9 (commencing with Section 7000) of Division 3, labor and materials, with or without plans, drawings, specifications, instruments of service, or other data covering such labor and materials to be used for any of the following:

(a) For nonstructural or nonseismic storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, or other appliances or equipment.

(b) For any nonstructural or nonseismic work necessary to provide for their installation.

(c) For any nonstructural or nonseismic alterations or additions to any building necessary to or attendant upon the installation of those storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, appliances, or equipment, provided those alterations do not change or affect the structural system or safety of the building.

CHAPTER 397

An act to add Chapter 30 (commencing with Section 7594) to Division 7 of Title 1 of the Government Code, relating to youth.

[Approved by Governor July 19, 1990. Filed with Secretary of State July 20, 1990.]

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

SECTION 1. Chapter 30 (commencing with Section 7594) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 30. YOUTH ACHIEVEMENT

7594. The last week of August commencing in 1991, is hereby designated as California's Salute to Youth Achievement Week. The purpose of California's Salute to Youth Achievement Week shall be to salute those youths who have made outstanding contributions to their cities and communities. The Governor and Legislature shall annually issue such proclamations and resolutions as they may deem appropriate drawing public attention to this week, and encouraging the private sector and state and local agencies to initiate activities and events to salute those youths who have made outstanding contributions to their cities and communities.

CHAPTER 398

An act to add Title 9 (commencing with Section 8000) to Part 3 of the Penal Code, relating to live-in rehabilitation programs.

[Approved by Governor July 20, 1990. Filed with Secretary of State July 23, 1990.]

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

SECTION 1. Title 9 (commencing with Section 8000) is added to Part 3 of the Penal Code, to read:

TITLE 9. LIVE-IN ALTERNATIVE TO INCARCERATION REHABILITATION PROGRAMS WITH SPECIAL FOCUS ON SUBSTANCE ABUSERS

8000. The Legislature finds and declares that the existence of live-in alternative to incarceration rehabilitation programs with special focus on substance abusers provide a useful alternative to incarceration and promotes the resumption of useful lives by persons with impairments caused by drug or alcohol abuse, or persons with criminal records who, because of these impairments, cannot be absorbed into the competitive labor market, or who otherwise have little or no chance of rehabilitation.

8001. For purposes of this title, a live-in alternative to incarceration rehabilitation program with special focus on substance abusers means any long-term (two-year minimum) private, nonprofit program that has operated and complied with the following conditions for at least five years prior to the effective date of this section:

(a) Participants live full time at the program site and receive room and board, and all necessary support at no cost to the participant.

(b) All necessary support shall include reasonable medical, dental, psychological, and legal services, counseling, entertainment, clothing, academic, life-skills, and interpersonal education, vocational training, rehabilitation, transportation, and recreation activities.

(c) Neither the directors nor the officers of the program shall be compensated in any manner other than the manner in which the participants of the program are compensated.

(d) The program shall not be operated with any public funds.

8002. Notwithstanding any other provision of law, the participants, director, and staff of a live-in alternative to incarceration rehabilitation program with special focus on substance abusers, when participating in operations owned and operated by the program, are exempt from the wage and hour provisions and Section 1025 of the Labor Code, so long as all revenues generated by the operation are used for the support of the program. All providers who bid on public work shall include in their bid the prevailing wage rate as required by the request.

CHAPTER 399

An act to amend Section 1568.12 of the Health and Safety Code, relating to Alzheimer's day care-resource centers.

[Approved by Governor July 20, 1990. Filed with Secretary of State July 23, 1990.]

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

SECTION 1. Section 1568.12 of the Health and Safety Code is amended to read:

1568.12. The following powers and duties are hereby vested in the department:

(a) The department shall supervise a program in specialized day care-resource centers for participants developed pursuant to this chapter.

(b) (1) The department shall conduct a grants-in-aid program, subject to the funds appropriated, for that purpose.

(2) The maximum award by the department to any grantee shall be sixty thousand dollars ($60,000) per year, and a grantee shall be required to match not less than 25 percent of the amount granted. The use of the grants shall be limited to the expenses of administration, staffing, operating expenses, such as rent and utilities, equipment, and required renovation expenses.

(3) The matching contribution of the grantee may include cash or in-kind contributions, and the in-kind contribution may include the value of staffing or volunteer services, or both.

(4) Grants shall be awarded in different geographical areas of the state. Grantees shall include at least one urban and one rural center, with representation from the north, south, and central regions of the state.

(5) When evaluating proposals for grants, preference shall be given to proposals that will serve clients in underserved areas or areas without existing Alzheimer's day care-resource centers.

(c) The department shall adopt policies, priorities, and guidelines to carry out the purposes of this chapter, and the adoption thereof 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.

The Adult Day Health Care Review Committee, established by Section 1572, shall make recommendations to the department on the selection of grantees to operate Alzheimer's day care-resource centers. If Senate Bill 601 of the 1987–88 Regular Session is enacted and amends Section 1572, the Long-Term Care Committee as provided for in that bill shall make recommendations to the department on the selection of grantees under this section.

Subject to funds appropriated for that purpose, the department shall allocate the funds necessary to continue operation of the Alzheimer's day care-resource centers, administered pursuant to this

part, during the 1987–88, 1988–89, 1989–90, and 1990–91 fiscal years.

CHAPTER 400

An act to amend Sections 415, 467, and 14900 of, and to repeal Sections 4011 and 21114.6 of, the Vehicle Code, relating to pedestrians, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1990. Filed with Secretary of State July 23, 1990]

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

SECTION 1. Section 415 of the Vehicle Code is amended to read:

415. A "motor vehicle" is a vehicle which is self-propelled.

"Motor vehicle" does not include a self-propelled wheelchair, invalid tricycle, or motorized quadricycle when operated by a person who, by reason of physical disability, is otherwise unable to move about as a pedestrian.

SEC. 1.5. Section 467 of the Vehicle Code is amended to read:

467. (a) A "pedestrian" is any person who is afoot or who is using a means of conveyance propelled by human power other than a bicycle.

(b) "Pedestrian" includes any person who is operating a self-propelled wheelchair, invalid tricycle, or motorized quadricycle and, by reason of physical disability, is otherwise unable to move about as a pedestrian, as specified in subdivision (a).

SEC. 2. Section 4011 of the Vehicle Code is repealed.

SEC. 3. Section 14900 of the Vehicle Code, as amended by Chapter 104 of the Statutes of 1990, is amended to read:

14900. Upon application for an original class C or M driver's license, or for the renewal of a class C or M driver's license, there shall be paid to the department a fee of ten dollars ($10). The payment of the fee entitles the person paying the fee to apply for a driver's license and to take three examinations within a period of 12 months from the date of the application or during the period that an instruction permit is valid, as provided in Section 12509.

SEC. 4. Section 21114.6 of the Vehicle Code is repealed.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the

California Constitution.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify, at the earliest possible time, various provisions of law regarding persons with physical disabilities who use motorized wheelchairs and other specialized personal conveyances, it is necessary that this act take effect immediately.

CHAPTER 401

An act to repeal and add Section 9420 of the Elections Code, relating to county central committees.

[Approved by Governor July 20, 1990 Filed with Secretary of State July 23, 1990.]

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

SECTION 1. Section 9420 of the Elections Code is repealed.

SEC. 2. Section 9420 is added to the Elections Code, to read:

9420. (a) Except as provided in subdivision (b), each committee shall meet in the courthouse at its county seat, upon call, in quarters arranged or provided, and on a weekday designated, by the county clerk, in the week after the first Sunday in January following the direct primary election.

(b) In counties of the first class, each committee shall meet pursuant to subdivision (a) on the first Saturday after the first Monday in January following the direct primary election.

CHAPTER 402

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

[Approved by Governor July 20, 1990 Filed with Secretary of State July 23, 1990]

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

SECTION 1. (a) The City of Palm Desert shall conduct a study of the feasibility of, and shall develop a plan for, a pilot program to be implemented by the city for the use of electrically powered golf carts within the city.

(b) The study shall be conducted with the participation of representatives of the Department of the California Highway Patrol,

the Department of Transportation, the electrically powered vehicle industry, the South Coast Air Quality Management District, and other interested persons, as determined by the city.

(c) The plan shall include all of the following elements:

(1) A traffic and engineering study completed by local authorities.

(2) The development of safety guidelines for the proper use of golf carts on local roadways, including provisions for operator restrictions.

(3) Designation of roads and safety lanes which can be used to accomplish transportation needs for access to shopping areas, schools, colleges, parks, civic centers, and golf courses. The designation shall be limited to municipal roadways and safety lanes, except where needed to allow crossing of state highways, such as State Highway Route 111 which is a surface highway, and only where so designated.

(4) The development of demographic data and environmental criteria for the City of Palm Desert to establish a base line for future consideration of golf cart use.

(5) A requirement for reporting findings and progress to the Legislature on an annual basis regarding the previous year's activity under the program.

(d) The study and plan shall be completed and submitted to the Legislature not later than one year after the date this act becomes operative.

(e) Nothing in this section or the plan or pilot program authorizes the operation of golf carts in any manner contrary to state law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California 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:

To enable the City of Palm Desert to develop, in an expeditious manner, a plan for the pilot program specified in Section 1, it is necessary that this act take effect immediately.

CHAPTER 403

An act to amend Section 48980 of the Education Code, relating to savings bonds.

[Approved by Governor July 20, 1990. Filed with Secretary of State July 23, 1990.]

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

SECTION 1. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of its minor pupils regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, 51240, and 51550, Article 3 (commencing with Section 56030) of Chapter 1 of Part 30, and Chapter 2.3 (commencing with Section 32255) of Part 19.

(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) The notification may also advise the parent or guardian of the importance of investing for future college or university education for their children and of considering appropriate investment options including, but not limited to, United States Savings Bonds.

(d) 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.

(e) Until June 30, 1995, the notification shall also advise the parent or guardian of the availability of the employment-based school attendance options pursuant to subdivision (f) of Section 48204.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 404

An act to add Section 98.68 to the Revenue and Taxation Code, relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1990. Filed with Secretary of State July 23, 1990.]

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

SECTION 1. Section 98.68 is added to the Revenue and Taxation Code, to read:

98.68. Notwithstanding Section 98.6, for the 1990–91 fiscal year and each fiscal year thereafter, the amount allocated pursuant to Section 96 or 97, and Section 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, located within Shasta County, excluding multicounty districts, shall be adjusted in accordance with the resolution, adopted by the Shasta County Board of Superivisors on June 19, 1990, with respect to distributions from the Special District Augmentation Fund for Shasta County.

SEC. 2. Notwithstanding any other provision of law, the allocation of property tax revenue in the 1979–80 fiscal year to the 1988–89 fiscal year, inclusive, in Shasta County, as distributed as of July 1, 1989, shall be deemed correct, and no reductions or increases in apportionments shall be made from the 1979–80 fiscal year to the 1988–89 fiscal year, inclusive.

SEC. 3. (a) Notwithstanding any other provision of law, the allocation of property tax revenue to the City of Anderson in Shasta County in fiscal year 1989–90, and in each fiscal year thereafter, shall be at least the same amount as was allocated in the 1987–88 fiscal year.

(b) This section shall be repealed as of the earlier date of the following:

(1) The date the Board of Supervisors of Shasta County notify the Secretary of State that a redevelopment agency has been formed by the City of Anderson.

(2) July 1, 1993.

SEC. 4. The Board of Supervisors of Shasta County may, by a resolution adopted by the vote of a majority of its members, request the Legislature to amend Sections 2 and 3 of this act.

SEC. 5. It is the intent of the Legislature not to validate in the future any other mistake in the allocation of property tax revenue unless the mistake is the result of written advice from the Department of Finance with respect to the particular allocation.

SEC. 6. With respect to the provisions of Sections 2 and 3 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 Shasta County. Shasta County allocated property tax revenues from the 1979–80 to the 1988–89 fiscal year, inclusive, in good faith reliance upon all information made available to the counties by the Department of Finance and the Controller. While other counties were benefited by an early review by either the Department of Finance or the Controller for purposes of early adjustments, Shasta County did not receive an early review and instead requested an audit of tax computation procedures for the 1988–89 fiscal year.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for local taxing agencies in Shasta County to be immediately relieved of the possibility of litigation and to assure that the county auditors may implement the newly adopted apportionment procedures without duress, it is necessary that this act take effect immediately.

CHAPTER 405

An act to amend Section 7 of the Yuba County Water Agency Act (Chapter 788 of the Statutes of 1959), relating to the Yuba County Water Agency.

[Approved by Governor July 20, 1990. Filed with Secretary of State July 23, 1990.]

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

SECTION 1. Section 7 of the Yuba County Water Agency Act (Chapter 788 of the Statutes of 1959) is amended to read:

Sec. 7. (a) The board of directors shall consist of seven members. The members of the board of supervisors of the county shall be ex officio members of the board of directors of the agency. Two members of the board of directors shall be elected by the voters in accordance with this section. Each elected director shall be a registered voter, a resident of the county, and eligible to hold elected office. One elected director shall reside north of the Yuba River and shall be elected by the voters residing north of the Yuba River. The other elected director shall reside south of the Yuba River and shall be elected by voters residing south of the Yuba River.

(b) The term of office of the two elected directors shall be four years, except that the initial terms of office shall be staggered with one director, chosen by lot, serving for a term of two years. The two elected directors shall initally be elected at the general election held on November 6, 1990, and shall take office at the first meeting of the

board of directors after January 1, 1991. One elected director shall thereafter be elected at each statewide primary election held in an even-numbered year, except that if no candidate receives more than 50 percent of the votes cast for the office at that election, the two candidates receiving the highest number of votes for the office shall be on the ballot at the general election held the following November. The elected directors shall take office at the first meeting of the board of directors after the first day of January following their election.

(c) Directors shall be entitled to receive from the agency the sum of twenty dollars ($20) for each meeting attended, plus actual, necessary and reasonable traveling expenses. The basis for compensation of the directors, and the amount thereof, may be altered only by a five-sevenths vote of the directors. The board of directors may adopt reasonable rules and regulations to carry out its powers and duties. The board of directors shall elect a chairperson and vice chairperson. The chairperson shall preside at all meetings of the board and in case of his or her absence or inability to act, the vice chairperson shall preside. In case of the absence of the chairperson and vice chairperson or their inability to act, the members present shall, by an order entered in the records, select a member to act as temporary chairperson. Any member of the board may administer oaths when necessary in the performance of his or her official duties. A majority of the members of the board shall constitute a quorum for the transaction of business, but no act of the board shall be valid or binding unless a majority of all members concur therein.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 406

An act to add Chapter 12.5 (commencing with Section 26170) to Part 2 of Division 2 of Title 3 of the Government Code, relating to county library facilities and services, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State July 24, 1990.]

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

SECTION 1. Chapter 12.5 (commencing with Section 26170) is added to Part 2 of Division 2 of Title 3 of the Government Code, to read:

CHAPTER 12.5. SHASTA COUNTY REGIONAL LIBRARY FACILITIES AND SERVICES ACT

Article 1. General Provisions

26170. This chapter shall be known, and may be cited as, the Shasta County Regional Library Facilities and Services Act.

26170.2. The Legislature hereby finds and declares all of the following:

(a) The existing state of library facilities and services in Shasta County conflicts with the goal of the Legislature and the Shasta County Board of Supervisors that each citizen have access to library materials and services adequate to promote literacy among the general population and to encourage the self-sufficiency available through access to knowledge.

(b) It is in the public interest to create the Shasta County Regional Library Facilities and Services Commission so that regional library facility and service needs may be addressed in an expeditious and appropriate fashion on a countywide basis.

(c) It is in the public interest to support the educational needs of the citizens of Shasta County for library facilities and services, including literacy programs.

26170.4. As used in this chapter, "board of supervisors" means the Board of Supervisors of the County of Shasta.

26170.8. As used in this chapter, "commission" means the Shasta County Regional Library Facilities and Services Commission created pursuant to Article 2 (commencing with Section 26171).

26170.10. As used in this chapter, "county" means the County of Shasta.

26170.12. As used in this chapter, "library facility" means a building or vehicle used to provide library services.

26170.14. As used in this chapter, "library services" means the process of collecting, acquiring, organizing, maintaining, and making available for public borrowing, printed and audiovisual materials. "Library services" shall include, but not be limited to, outreach services, including the use of community access or public television broadcast channels, access to reference materials, including computerized and electronically and optically stored information, and on-line data bases, and provision of literacy programs.

26170.16. As used in this chapter, "master plan" means a plan for

constructing, furnishing, acquiring, leasing, maintaining, and operating library facilities, and structures necessary or convenient to those facilities, and providing library services. Subject to the limitations on the commission's powers, as set forth in this chapter, the master plan may include, but is not limited to, all of the following:

(a) The library facilities to be constructed, furnished, acquired, leased, maintained, or operated throughout the county.

(b) The time schedule for constructing, acquiring, leasing, or furnishing the facilities referenced in subdivision (a).

(c) The kinds and levels of library services to be provided at or through each library facility.

(d) The actions proposed to meet the goals and objectives of subdivisions (a), (b), and (c).

(e) Projections of revenues, including revenues expected to be derived from any source of revenue authorized by this chapter, together with other federal, state, and local funds, gifts, donations, and endowments, and expenditures for capital, maintenance, and library facilities and services purposes.

(f) Any other requirements the commission, in carrying out its responsibility for the provision of library facilities and services, deems necessary or appropriate.

26170.18. This chapter shall be liberally construed to effectuate its purposes. No inadvertent error, irregularity, informality, or the inadvertent neglect or omission of any officer, in any procedure taken under this chapter, other than fraud, shall void or invalidate that proceeding or any levy imposed to finance regional library facilities or services within the county.

26170.20. Any action to determine the validity of the creation or organization or any action of the commission shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

26170.22. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

26170.24. (a) This chapter shall not be operative unless and until the board of supervisors enacts an ordinance declaring this chapter to be operative.

(b) This chapter shall become inoperative on January 1, 1995, if the commission has not secured by that date one or more sources of revenue authorized by Section 26172.2.

Article 2. Creation, Membership, and Procedures of the Shasta County Regional Library Facilities and Services Commission

26171. There is in Shasta County the Shasta County Regional Library Facilities and Services Commission. The jurisdiction of the commission includes all territory within the incorporated and

unincorporated areas of Shasta County.

26171.2. (a) The commission shall be composed of seven members, as follows:

(1) Two members appointed, from among the board members or the general public, by the board of supervisors.

(2) One member appointed, from among the city council members or the general public, by the city council of each city in the county.

(3) One member appointed, from among the board members or the general public, by the county board of education.

(4) Two citizens, each appointed by a four-fifths vote of the other five commissioners.

(b) Each appointing authority may appoint an alternate member to the commission, to represent, appear for, and vote on behalf of, a regular commissioner appointed by that appointing authority.

(c) (1) Except as provided in paragraph (2), all commissioners shall be appointed for terms of four years and until their successors are appointed and qualified.

(2) Of the initial members of the commission, three shall serve for terms of two years, three shall serve for terms of three years, and one shall serve for a term of four years. The respective term of each of the initial members shall be determined by the commissioners by lot. Thereafter, commissioners shall be appointed for terms of four years.

(3) The term of any county supervisor, city councilmember, or member of the county board of education appointed pursuant to this section shall terminate when that member ceases holding the other public office and a new member is appointed and qualified. The new commissioner shall hold office for the remainder of the term of the commissioner replaced by the new commissioner.

(4) A commissioner may be removed from the commission at any time by the appointing authority that appointed the commissioner.

(5) Vacancies occurring shall be filled by the appointing authority for the unexpired term.

26171.4. The board of supervisors shall call the first meeting of the commission and shall designate one of the commissioners to act as chairperson for that meeting. The commission, at its first meeting and thereafter at an annual meeting held on a date determined by the commission, shall elect a chairperson from among its members, who shall preside at all meetings, and a vice chairperson, who shall preside in the chairperson's absence. If both the chairperson and vice chairperson are absent or unable to act, the commissioners present, by an order entered in the minutes, shall select one among them to act as temporary chairperson, who, while so acting, shall have all of the authority of the chairperson.

26171.6. The commission shall establish rules for its proceedings consistent with the laws of the State of California.

26171.8. Four commissioners shall constitute a quorum for the transaction of business, and all official acts of the commission shall require the affirmative vote of a majority of the total membership of

the commission.

26171.10. The acts of the commission shall be expressed by motion, resolution, or ordinance.

26171.12. All meetings of the commission shall be conducted in the manner prescribed by the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

Article 3. Powers and Duties of the Shasta County Regional Library Facilities and Services Commission

26172. The commission shall do all of the following:

(a) Adopt an annual budget.

(b) Develop, and after a public hearing, approve and amend from time to time the master plan.

(c) Cause a postaudit of the financial transactions and records of the commission to be made at least annually by a certified public account.

(d) Comply with Sections 19468 and 19479.

26172.2. The commission may do any or all of the following:

(a) Contract for goods, services, and supplies. The commission may employ consultants and attorneys as necessary or convenient to carry out its purposes and powers.

(b) With the concurrence of the board of supervisors, appoint an executive director who shall act for the commission under its direction. If an executive director is not appointed, the county's county librarian shall act as the executive director. All other reasonably necessary staff services shall be provided by the county, and the commission shall reimburse the county for the full cost of those services, including salary or wages, and employment benefits according to an agreement entered into between the county and the commission.

(c) Subject to any limitations of this chapter, exercise the powers for providing and funding library facilities and services, as follows:

(1) Issue bonds pursuant to Chapter 6 (commencing with Section 29900) of Division 3 of Title 3.

(2) Levy a special tax 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.

(3) Levy a special tax pursuant to Article 3.6 (commencing with Section 53717) of Chapter 4 of Part 1 of Division 2 of Title 5.

(4) Levy a retail transactions and use tax in accordance with Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code.

(5) Levy service charges and fines.

(c) Do any and all things necessary to carry out the purposes of this chapter.

26172.3. No tax or assessment proposed to be levied or imposed pursuant to Section 26172.2 shall take effect unless first approved by the percentage of the electors in the affected territory of Shasta

County required by the principal act authorizing the tax or assessment, or if the principal act does not require an approval by the electorate, then the approval of any tax or assessment shall be by a majority of the electors in the affected territory of Shasta County voting on the issue. This section shall not apply to paragraph (5) of subdivision (c) of Section 26172.2.

26172.4. The commission may accept any revenue, money, grants, goods, or services from any public agency, private entity, or person for any lawful purpose of the commission.

26172.5. The commission shall be deemed to be a local agency for purposes of Section 65402.

26172.6. Notice of the time and place of the public hearing for the adoption of the annual budget, or the approval or amendment of the master plan, shall be published pursuant to Section 6061 at least 10 days prior to the hearing date. The proposed annual budget, and the proposed master plan or amendments to the plan, shall be available for public inspection at least 15 days prior to the hearing.

26172.8. Members of the commission may be reimbursed for reasonable and necessary travel and other expenses incurred in the performance of their duties, as authorized by the commission.

26172.10. (a) Except as otherwise provided in subdivision (b), the commission shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into such a contract, to include all of the officers and employees of the commission in that retirement system.

(b) Notwithstanding subdivision (a), if the commission contracts with the county or other agencies to utilize officers or employees of the county or other agencies in lieu of hiring its own officers or employees, the commission need not establish any retirement benefits program for those officers or employees.

26172.12. The commission has perpetual succession and may adopt a seal and alter it at its pleasure.

26172.14. The commission may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

26172.16. All claims for money or damages against the commission shall be 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.

SEC. 2. The Legislature finds and declares that, due to the unique circumstances stated in Section 26170.2 of the Government Code, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California 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:

Since August of 1987, the Shasta County Library System has twice closed due to the unavailability of sufficient general fund revenues

to sustain the system's operation. In order to revitalize the Shasta County Library System as a crucial educational, informational, cultural, social, and civil resource, it is necessary to provide a new opportunity for the provision of library facilities and services to the people of Shasta County at the earliest possible time.

CHAPTER 407

An act to amend Sections 25249.5, 25249.6, and 25249.11 of, and to add Sections 25249.15, 25249.16, 25249.17, and 25249.18 to, the Health and Safety Code, relating to toxic chemicals, and calling an election, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State July 24, 1990.]

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

SECTION 1. Section 25249.5 of the Health and Safety Code is amended to read:

25249.5. No person in the course of doing business shall knowingly discharge or release a chemical known to the state to cause cancer or reproductive toxicity into water or onto or into land where the chemical passes or probably will pass into any source of drinking water, notwithstanding any other provision or authorization of law except as provided in Sections 25249.9, 25249.15, and 25249.17.

SEC. 2. Section 25249.6 of the Health and Safety Code is amended to read:

25249.6. No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to the individual, except as provided in Sections 25249.10 and 25249.16.

SEC. 3. Section 25249.11 of the Health and Safety Code is amended to read:

25249.11. Definitions.

For purposes of this chapter:

(a) "Business" means the conduct of activity, including, but not limited to, commercial or proprietary activities.

(b) "Person" means an individual, trust, firm, joint stock company, corporation, company, partnership, association, or public agency.

(c) "Person in the course of doing business" does not include any person employing fewer than 10 employees in the person's business or a publicly owned treatment works.

(d) "Person in the course of doing business" includes, but is not limited to, a public agency regardless of the number of its employees.

(e) "Public agency" means a city, county, district, government corporation, the state, or any department or agency thereof, and, to the extent permitted by law, the federal government, or any department or agency thereof.

(f) "Publicly owned treatment works" means treatment works, as defined in Section 1292 of Title 33 of the United States Code, which are owned and operated by a public agency.

(g) "Significant amount" means any detectable amount except an amount which would meet the exemption test in subdivision (c) of Section 25249.10 if an individual were exposed to such an amount in drinking water.

(h) "Source of drinking water" means either a present source of drinking water or water which is identified or designated in a water quality control plan adopted by a regional board as being suitable for domestic or municipal uses.

(i) "Threaten to violate" means to create a condition in which there is a substantial probability that a violation will occur.

(j) "Warning" within the meaning of Section 25249.6 is not required to be provided separately to each exposed individual and may be provided by general methods such as labels on consumer products, inclusion of notices in mailings to water customers, posting of notices, placing notices in public news media, and the like, provided that the warning accomplished is clear and reasonable. In order to minimize the burden on retail sellers of consumer products including foods, regulations implementing Section 25249.6 shall to the extent practicable place the obligation to provide any warning materials such as labels on the producer or packager rather than on the retail seller, except where the retail seller itself is responsible for introducing a chemical known to the state to cause cancer or reproductive toxicity into the consumer product in question.

SEC. 4. Section 25249.15 is added to the Health and Safety Code, to read:

25249.15. Section 25249.5 does not apply to any discharge or release by a public agency if any of the following apply:

(a) The discharge or release is a substance, or the byproducts of a substance, which is intentionally placed into water by a public water system, as defined in Section 4010.1, for the purpose of protecting or promoting public health.

(b) The discharge or release is by a public water system, as defined in Section 4010.1, if the public water system did not cause the presence of the substance in the water which is discharged or released.

(c) The discharge or release is surface runoff from a watershed where the substance is naturally present in geological formations and is present in the surface runoff.

(d) The discharge or release is stormwater runoff drained from underground vaults, chambers, manholes, storm drains, or detention basins into gutters or other flood control or drainage systems.

(e) The discharge or release is governed by a federal law in a

manner which preempts state authority.

(f) The discharge or release results from activities undertaken in response to a public emergency, including, but not limited to, firefighting, or activities undertaken for public health purposes.

(g) The discharge or release takes place less than 20 months subsequent to the listing of the chemical in question on the list required to be published under subdivision (a) of Section 25249.8 or before July 6, 1992, whichever date is later.

SEC. 5. Section 25249.16 is added to the Health and Safety Code, to read:

25249.16. Section 25249.6 does not apply to any exposure by a public agency, or by a public water system, as defined in Section 4010.1, owned or operated by an entity which is not a public agency, if either of the following apply:

(a) The exposure takes place less than 12 months subsequent to the listing of the chemical in question on the list required to be published under subdivision (a) of Section 25249.8 or before November 6, 1991, whichever date is later.

(b) The exposure results from activities undertaken in response to a public emergency, including, but not limited to, firefighting. For purposes of this subdivision, a response to a public emergency does not include the routine disinfection of drinking water.

SEC. 6. Section 25249.17 is added to the Health and Safety Code, to read:

25249.17. Section 25249.5 does not apply to any discharge or release by a public water system, as defined in Section 4010.1, owned or operated by an entity which is not a public agency if any of the following apply:

(a) The discharge or release takes place less than 20 months subsequent to the listing of the chemical in question on the list required to be published under subdivision (a) of Section 25249.8 or before July 6, 1992, whichever is later.

(b) The discharge or release is a substance, or the byproducts of a substance, which is intentionally placed into water by a public water system, as defined in Section 4010.1, for the purpose of protecting or promoting public health.

(c) The public water system did not cause the presence of the substance in the water which is discharged or released.

(d) The discharge or release is surface runoff from a watershed were the substance is naturally present in geological formations and is present in the surface runoff.

SEC. 7. Section 25249.18 is added to the Health and Safety Code, to read:

25249.18. It is the intent of the Legislature in amending Section 25249.11 by the act adding this section and of the people in approving the act adding this section, to include public agencies, except for publicly owned treatment works, within the prohibitions of Sections 25249.5 and 25249.6, except as provided in Sections 25249.15 and 25249.16. It is not, however, the intent of the Legislature in enacting

the act adding this section, and of the people in approving the act adding this section, to affect in any manner existing statutory law with respect to the prohibition of Section 25249.5 as it applies to any person who, in the course of doing business, knowingly discharges or releases a chemical known to the state to cause cancer or reproductive toxicity into a publicly owned treatment works. A state agency, when implementing this chapter pursuant to Section 25249.12, and a court, when interpreting this chapter, shall not construe the amendment by the act adding this section, of subdivision (c) of Section 25249.11, which excludes publicly owned treatment works from the definition of person in the course of doing business, as affecting in any manner existing statutory law with respect to the prohibition of Section 25249.5 as it applies to any person who, in the course of doing business, knowingly discharges or releases a chemical known to the state to cause cancer or reproductive toxicity into a publicly owned treatment works.

SEC. 8. Sections 1 to 7, inclusive, of this act amend the Safe Drinking Water and Toxic Enforcement Act of 1986 and shall become effective only when submitted to and approved by the electors at a special election to be consolidated with the November 6, 1990, general election, pursuant to subdivision (c) of Section 10 of Article II of the California Constitution.

SEC. 9. Notwithstanding any other provision of law, including, but not limited to, Sections 3525 and 3572 of the Elections Code, Sections 1 to 7, inclusive, of this act shall be submitted to the voters at a special election to be consolidated with the November 6, 1990, general election in accordance with the provisions of the Government Code and the Elections Code governing submission of statewide measures to the voters at a statewide election.

SEC. 10. This act calls an election within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 408

An act to amend Section 537e of the Penal Code, and to add Section 42002.4 to the Vehicle Code, relating to crimes.

[Approved by Governor July 24, 1990 Filed with Secretary of State July 25, 1990]

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

SECTION 1. Section 537e of the Penal Code is amended to read:

537e. (a) Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his or her possession any personal property from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed, is guilty of a public offense,

punishable as follows:

(1) If the value of the property does not exceed four hundred dollars ($400), by imprisonment in the county jail not exceeding six months.

(2) If the value of the property exceeds four hundred dollars ($400), by imprisonment in the county jail not exceeding one year.

(3) If the property is an integrated computer chip or panel of a value of four hundred dollars ($400) or more, by imprisonment in the state prison for 16 months, or 2 or 3 years or by imprisonment in a county jail not exceeding one year.

For purposes of this subdivision, "personal property" includes, but is not limited to, the following:

(1) Any television, radio, recorder, phonograph, telephone, piano, or any other musical instrument or sound equipment.

(2) Any washing machine, sewing machine, vacuum cleaner, or other household appliance or furnishings.

(3) Any typewriter, adding machine, dictaphone, or any other office equipment or furnishings.

(4) Any computer, printed circuit, integrated chip or panel, or other part of a computer.

(5) Any tool or similar device, including any technical or scientific equipment.

(6) Any bicycle, exercise equipment, or any other entertainment or recreational equipment.

(7) Any electrical or mechanical equipment, contrivance, material, or piece of apparatus or equipment.

(8) Any clock, watch, watch case, or watch movement.

(9) Any vehicle or vessel, or any component part thereof.

(b) When property described in subdivision (a) comes into the custody of a peace officer it shall become subject to the provision of Chapter 12 (commencing with Section 1407), Title 10 of Part 2, relating to the disposal of stolen or embezzled property. Property subject to this section shall be considered stolen or embezzled property for the purposes of that chapter, and prior to being disposed of, shall have an identification mark imbedded or engraved in, or permanently affixed to it.

(c) This section does not apply to those cases or instances where any of the changes or alterations enumerated in subdivision (a) have been customarily made or done as an established practice in the ordinary and regular conduct of business, by the original manufacturer, or by his or her duly appointed direct representative, or under specific authorization from the original manufacturer.

SEC. 2. Section 42002.4 is added to the Vehicle Code, to read:

42002.4. A violation of Section 10751 shall be punished by imprisonment in the county jail not exceeding six months if the value of the property does not exceed four hundred dollars ($400), and by imprisonment in the county jail not exceeding one year if the value of the property is more than four hundred dollars ($400).

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 409

An act to amend Sections 18554 and 25555 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 24, 1990 Filed with Secretary of State July 25, 1990]

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

SECTION 1. Section 18554 of the Revenue and Taxation Code is amended to read:

18554. (a) The tax, and any interest and penalties thereon, shall be paid to the Franchise Tax Board. Remittances may be in the form of a check, payable to the Franchise Tax Board, during that period and under those regulations as the Franchise Tax Board may prescribe. If a check is not paid by the bank on which it is drawn, the taxpayer tendering the check remains liable for the payment of the tax, and all interest and penalties thereon, as if he or she had not tendered the check.

(b) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, the Franchise Tax Board may allow remittances to be in the form of a credit account number and an authorization to draw upon a specified credit account, at that time and under those conditions as the Franchise Tax Board may prescribe. Remittances in the form of an authorization to draw upon a specified credit account shall include an amount, not to exceed 1 and one-half percent of the balance otherwise due, for purposes of paying the discount rate associated with drawing upon the credit account.

(c) Remittances made pursuant to subdivision (b) may be drawn on an account with a financial institution which agrees to add the discount rate associated with the use of the credit account number to the credit card holder's billing. Remittances drawn as described in this subdivision shall not include an amount for purposes of paying the discount rate associated with drawing upon the credit account.

SEC. 2. Section 25555 of the Revenue and Taxation Code is amended to read:

25555. (a) In the case of taxpayers subject to the tax imposed by this part the tax, and any interest and penalties thereon, shall be paid to the Franchise Tax Board. Remittances may be in the form of a check, payable to the Franchise Tax Board, during that period and under those regulations as the Franchise Tax Board may prescribe. If a check is not paid by the bank on which it is drawn, the taxpayer tendering the check shall remain liable for the payment of the tax, and all interest and penalties, as if the check had not been tendered.

(b) The Franchise Tax Board may allow remittances to be in the form of a credit account number and authorization to draw upon a specified credit account, at that time and under those conditions as the Franchise Tax Board may prescribe. Remittances in the form of an authorization to draw upon a specified credit account shall include an amount, not to exceed 1 and one-half percent of the balance otherwise due, for purposes of paying the discount rate associated with drawing upon the credit account.

(c) Remittances made pursuant to subdivision (b) may be drawn on an account with a financial institution which agrees to add the discount rate associated with the use of the credit account number to the credit card holder's billing. Remittances drawn as described in this subdivision shall not include an amount for purposes of paying the discount rate associated with drawing upon the credit account.

SEC. 3. (a) The Franchise Tax Board shall establish a pilot program for the acceptance of remittances in the form of authorizations to draw upon credit accounts for the payment of taxes, and any interest or penalties thereon. The pilot program shall include, but not be limited to, the acceptance of credit account remittances in payment of liabilities with regard to the automated collection process of the Franchise Tax Board. The pilot program shall apply to payments on or after January 1, 1991, and before January 1, 1993.

(b) To the extent feasible, the Franchise Tax Board shall contract, for purposes of the pilot program, with those financial institutions which agree to add the discount rate associated with the use of a credit card account number to the credit card holder's billing.

(c) The Franchise Tax Board shall report to the Legislature, on or before December 1, 1993, as to the implementation of the pilot program. The report shall address additional costs or cost savings, administrative impacts, fiscal advantages and disadvantages, impacts on service to taxpayers, and taxpayer responses with regard to credit account remittances, and shall identify if the project has met its objectives. The report shall also include a description and evaluation of possible alternatives to credit account remittances.

(d) The pilot program shall be considered to have met its objectives if at least 2 percent of taxpayers offered the opportunity to remit taxes in the form of a credit account in fact make such a remittance, and if the cost to the state of accepting credit account remittances is comparable to, or lower than, the cost of accepting other forms of remittances.

CHAPTER 410

An act to add Section 985.5 to the Insurance Code, relating to insurance.

[Approved by Governor July 24, 1990. Filed with Secretary of State July 25, 1990.]

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

SECTION 1. Section 985.5 is added to the Insurance Code, to read:

985.5. In the case of the insolvency of an admitted insurer, the commissioner shall prepare a report, which shall be a public record, with respect to the causes and factors which contributed to that insolvency. The report shall be submitted to the Governor and to the Legislature no later than one year from the date of the insolvency.

CHAPTER 411

An act to amend Sections 4390, 4390.3, 4390.9, and 4390.14 of the Civil Code, to amend Sections 259, 1277, and 1699 of the Code of Civil Procedure, to amend Section 273.6 of the Penal Code, and to amend Section 11489 of the Welfare and Institutions Code, relating to family law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1990. Filed with Secretary of State July 25, 1990]

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

SECTION 1. Section 4390 of the Civil Code is amended to read:

4390. Unless the provision or context otherwise requires, the following definitions in this chapter govern the construction of this chapter.

(a) "Assignment" has the same meaning as "wage assignment" or "earnings assignment." "Wage assignment" and "earnings assignment" have the same meaning and cover all "earnings" as described in subdivision (c).

(b) "Due date of support payments" shall be the date specifically stated in the order of support or, if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(c) "Earnings," to the extent that these earnings are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, includes:

(1) Wages, salary, bonus, money, and benefits described in

Sections 704.110, 704.113, and 704.115 of the Code of Civil Procedure.

(2) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, or mineral or other natural resource rights.

(3) Payments of credits due or becoming due as a result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(4) Any other payments or credits due or becoming due as a result of an enforceable obligation.

(d) "Employer" means a person for whom an individual performs services as an employee, as defined in Section 706.011 of the Code of Civil Procedure, and includes the United States government and any public entity as defined in Section 811.2 of the Government Code and any person or entity paying earnings as defined under subdivision (c).

(e) "IV-D Case" means any case being established, modified, or enforced by the district attorney pursuant to Section 654 of Title 42 of the United States Code (Section 454 of the Social Security Act).

(f) "Obligee" or "assigned obligee" means either the person to whom support has been ordered to be paid, the district attorney, or other person designated by the court to receive the payment. The district attorney shall be the obligee for all cases as defined under subdivision (e) or in which an application for services has been filed under Part D (commencing with Section 651) and Part E (commencing with Section 670) of Subchapter IV of Chapter 7 of Title 42 of the United States Code (Title IV-D or IV-E of the Social Security Act).

(g) "Obligor" means any person owing a duty of support.

(h) "Support" refers to an obligation owing on behalf of a child, spouse, or family; where appropriate, it also refers to past due support or arrearage.

(i) "Timely payment" means receipt of support payments by the obligee or assigned obligee within five days of the due date.

SEC. 2. Section 4390.3 of the Civil Code is amended to read:

4390.3. (a) On and after July 1, 1990, whenever the court orders either party to pay any amount of support or orders a modification of the amount of support to be paid, the court shall also order the obligor to assign to an obligee that portion of his or her earnings due or to be due in the future as will be sufficient to pay the amount ordered by the court for support. The court shall include a wage assignment order in any order or judgment establishing or modifying support. Upon the filing and service of a notice of motion or order to show cause with the supporting application, an obligee may request the court to issue a wage assignment to enforce an existing support order or to modify an existing wage assignment order.

(b) All orders for wage assignment entered pursuant to this section shall be effective upon compliance with the procedures set forth in Section 4390.8, unless stayed pursuant to subdivision (c).

(c) The court may order that service of the wage assignment be

stayed only if the court makes a finding of good cause to stay service of the wage assignment. Good cause is limited to the following:

(1) The obligor has a history of uninterrupted, full, and timely payment of previously ordered support during the preceding 12 months; however, an obligor who has not been subject to an order of support for 12 months prior to the issuance of the wage assignment may qualify for good cause subject to this provision if the obligor posts with the clerk of the court a cash bond or cash in an amount equal to three months' support.

Notwithstanding the above, good cause to stay service of the wage assignment shall not be found if an obligor owes an arrearage for prior support.

(2) The obligor proves, and the court finds, by clear and convincing evidence that service of the wage assignment would cause extraordinary hardship upon the obligor. Whenever possible, the court shall specify a date that any stay ordered under this paragraph will automatically terminate.

(3) The parties sign a written agreement which provides for an alternative arrangment to ensure payment of the support obligation as ordered other than through the immediate service of a wage assignment. This written agreement may include an agreement relating to the staying of the service of a wage assignment. Any agreement between the parties which includes the staying of the service of a wage assignment shall include the agreement of the district attorney in any case in which support is ordered to be paid through a county officer designated for that purpose. The signing of an agreement pursuant to this paragraph shall not preclude the party from seeking an assignment in accordance with the procedures set forth in Section 4390.4 upon violation of this agreement.

(4) The employer or district attorney has been unable to deliver payments under the assignment for a period of six months due to the failure of the obligee to notify the employer or district attorney of a change of address.

SEC. 3. Section 4390.9 of the Civil Code is amended to read:

4390.9. (a) An obligor may move to quash an assignment order within 10 days after service on the obligor of notice of the assignment order by his or her employer if the obligor states under oath that the assignment order does not correctly state the amount of current or overdue support ordered by the courts, that the alleged obligor is not the obligor from whom support is due, or that the amount to be withheld exceeds that allowable under federal law in subdivision (b) of Section 1673 of Title 15 of the United States Code.

(b) In any case in which an assignment is sought under Section 4390.5, the party ordered to pay support may move to quash the service of the order for wage assignment based upon subdivision (c) of Section 4390.3.

(c) If a wage assignment order which has been issued and served on a prior employer is served on the obligor's new employer, the obligor does not have the right to move to quash the assignment on

any grounds which the obligor previously raised when the assignment was served on his or her prior employer or on any grounds which the obligor could have raised when the assignment was served on the prior employer but failed to raise.

(d) A finding of error in the amount of the current support or arrearage or that the amount exceeds federal or state limits is not grounds to vacate the assignment order. The court shall modify the order to reflect the correct or allowable amount of support or arrearages. The fact that the obligor may have subsequently paid the arrearages shall not relieve the court of its duty to enter the order for the assignment.

SEC. 4. Section 4390.14 of the Civil Code is amended to read:

4390.14. Upon the filing and service of a motion and a notice of motion by the obligor, the court shall terminate the service of an order of assignment if past due support has been paid in full, including any interest due, and if one of the following conditions exists:

(a) With regards to orders for spousal support, the death or remarriage of the spouse to whom support is owed.

(b) With regards to orders for child support, the death or emancipation of the child for whom support is owed.

(c) The court determines that there is good cause, as defined in Section 4390.3, to terminate the assignment. This subdivision does not apply if there has been more than one application for a wage assignment.

(d) The termination of the stay of a wage assignment under Section 4390.4 was improper, but only if that termination was based upon the obligor's failure to make timely support payments as described in subdivision (b) of Section 4390.4.

SEC. 5. Section 259 of the Code of Civil Procedure is amended to read:

259. Subject to the supervision of the court every court commissioner shall have power to do all of the following:

(a) Hear and determine ex parte motions, for orders and alternative writs and writs of habeas corpus in the superior court for which the court commissioner is appointed.

(b) Take proof and make and report findings thereon as to any matter of fact upon which information is required by the court. Any party to any contested proceeding may except to the report and the subsequent order of the court made thereon within five days after written notice of the court's action. A copy of the exceptions shall be filed and served upon opposing party or counsel within the five days. The party may argue any exceptions before the court on giving notice of motion for that purpose within 10 days from entry thereof. After a hearing before the court on the exceptions, the court may sustain, or set aside, or modify its order.

(c) Take and approve any bonds and undertakings in actions or proceedings, and determine objections to the bonds and undertakings.

(d) Administer oaths and affirmations, and take affidavits and depositions in any action or proceeding in any of the courts of this state, or in any matter or proceeding whatever, and take acknowledgments and proof of deeds, mortgages, and other instruments requiring proof or acknowledgment for any purpose under the laws of this or any other state or country.

(e) Act as temporary judge when otherwise qualified so to act and when appointed for that purpose, or by written consent of an appearing party. While acting as temporary judge the commissioner shall receive no compensation therefor other than compensation as commissioner.

(f) Hear and report findings and conclusions to the court for approval, rejection, or change, all preliminary matters including motions or petitions for the custody and support of children, the allowance of temporary alimony, costs and attorneys' fees, and issues of fact in contempt proceedings in divorce, maintenance, and annulment of marriage cases.

(g) Hear, report on, and determine all uncontested actions and proceedings subject to the requirements of subdivision (e).

(h) Charge and collect the same fees for the performance of official acts as are allowed by law to notaries public in this state for like services. This subdivision does not apply to any services of the commissioner, the compensation for which is expressly fixed by law. The fees so collected shall be paid to the treasurer of the county, for deposit in the general fund of the county.

(i) Provide an official seal, upon which must be engraved the words "Court Commissioner" and the name of the county, or city and county, in which the commissioner resides.

(j) Authenticate with the official seal the commissioner's official acts.

SEC. 6. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) Where an action for a change of name is commenced by the filing of a petition, the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed and the name proposed, and directing all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than four or more than eight weeks from the time of making the order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.

Four weekly publications shall be sufficient publication of the

order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

Where a petition has been filed for a minor and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(b) Where application for change of name is brought as part of an action under Part 7 (commencing with Section 7000) of Division 4 of the Civil Code, whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as is set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

SEC. 7. Section 1699 of the Code of Civil Procedure is amended to read:

1699 (a) Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this state. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner. Upon registration, a foreign order for the assignment of wages for support shall be treated for all purposes in the same manner as an order for assignment of earnings entered pursuant to Chapter 5 (commencing with Section 4390) of Title 1.5 of Part 5 of Division 4 of the Civil Code.

(b) The obligor has 20 days after the mailing or other service of notice of the registration in which to petition the court to vacate the registration or for other relief. If the obligor does not so petition the registered order is confirmed.

(c) At the hearing to enforce the registered order the obligor may present only matters that would be available to the obligor as defenses in an action to enforce a support judgment. If the obligor shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If the obligor shows to the court any ground upon which enforcement of a support order of this state may be stayed the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a

support order of this state.

SEC. 8. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any willful and knowing violation of any of the court orders set forth in this subdivision, when obtained pursuant to Section 4359, 4458, 4516, 7020, or 7021 of the Civil Code, Section 412.21 or 527.6 of the Code of Civil Procedure, or Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure 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 one year or by both the fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in a physical injury, the person shall be imprisoned in the county jail for at least 48 hours, whether a fine or imprisonment is imposed, or the sentence is suspended.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, or disturbing the peace of the other party, or other named family and household members.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the orders under subdivision (a) or (d).

(d) A second or subsequent conviction for a violation of an order issued pursuant to subdivision (a) occurring within seven years of a prior conviction for a violation of such an order and involving an act of violence or "a credible threat" of violence as defined in subdivision (b) of Section 139 is punishable by imprisonment in the county jail not to exceed one year, or in the state prison for 16 months or two or three years.

(e) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to the provisions listed in subdivisions (a), (b), and (d).

SEC. 9. Section 11489 of the Welfare and Institutions Code is amended to read:

11489. After judgment in any court action brought to enforce the support obligation of an absent parent pursuant to the provisions of this chapter, the court may order an assignment of earnings pursuant to Chapter 5 (commencing with Section 4390) of Title 1.5 of Part 5 of Division 4 of the Civil Code.

SEC. 10. 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. Notwithstanding Section 17580 of the Government Code, unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 11. Sections 1 to 4, inclusive, and 7 to 9, inclusive, of this act shall become operative on July 1, 1990, or the effective date of this act, whichever is later.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions of this bill relating to family law may make necessary changes to existing law prior to its operative date of July 1, 1990, it is necessary that this act take effect immediately.

CHAPTER 412

An act to amend Section 211.3 of, and to add Section 215 to, the Health and Safety Code, relating to health services.

[Approved by Governor July 24, 1990. Filed with Secretary of State July 25, 1990]

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

SECTION 1. Section 211.3 of the Health and Safety Code is amended to read:

211.3. (a) The director shall establish a statewide system for the collection of information determining the incidence of cancer, using population-based tumor registries modeled after the Cancer Surveillance Program of Orange County. As of the effective date of this section the director shall begin phasing in the statewide cancer reporting system. By July 1, 1988, all county or regional registries shall be implemented or initiated. By July 1, 1990, the statewide cancer reporting system shall be fully operational. Within 60 days of the effective date of this section, the director shall submit an implementation and funding schedule to the Legislature.

(b) The state department may designate any demographic parts of the state as regional cancer incidence reporting areas and may establish regional cancer registries, with the responsibility and authority to carry out the intent of this section in designated areas. Designated regional registries shall provide, on a timely basis, cancer incidence data as designated by the state department to the state department. The state department may contract with an agency, including, but not limited to, a health systems agency, single county health department, multicounty health department grouping, or nonprofit professional association, representing a designated cancer reporting region for the purposes of collecting and collating cancer incidence data.

(c) The director shall designate cancer as a disease required to be reported in the state or any demographic parts of the state in which cancer information is collected under this section. All cancers diagnosed or treated in the reporting area shall thereafter be reported to the representative of the state department authorized to compile the cancer data, or any individual, agency, or organization designated to cooperate with that representative.

(d) (1) Any hospital or other facility providing therapy to cancer patients within an area designated as a cancer reporting area shall report each case of cancer to the department or the authorized representative of the state department in a format prescribed by the state department. If the hospital or other facility fails to report in a format prescribed by the department, the state department's authorized representative may access the information from the hospital or the facility and report it in the appropriate format. In these cases, the hospital or other health facility shall reimburse the state department or the authorized representative for its cost to access and report the information.

(2) Any physician and surgeon, dentist, podiatrist, or other health care practitioner diagnosing or providing treatment for cancer patients shall report each cancer case to the state department or the authorized representative of the state department except for those cases directly referred to a treatment facility or those previously admitted to a treatment facility for diagnosis or treatment of that instance of cancer.

(e) Any hospital or other facility which is required to reimburse the state department or its authorized representative for the cost to access and report the information pursuant to subdivision (d) shall provide payment to the state department or its authorized representative within 60 days of the date this payment is demanded. In the event any hospital or other facility fails to make the payment to the state department or its authorized representative within 60 days of the date the payment is demanded, the state department or its authorized representative may, at its discretion, assess a late fee not to exceed 1½ percent per month of the outstanding balance. Further, in the event that the state department or its authorized representative takes a legal action to recover its costs and any associated fees, and the state department or its authorized representative receives a judgment in its favor, the hospital or other facility shall also reimburse the state department or its authorized representative for any additional costs it incurred to pursue the legal action. Late fees and payments made to the state department by hospitals or other facilities pursuant to this subdivision shall be considered as reimbursements of the additional costs incurred by the department.

(f) All physicians and surgeon, hospitals, outpatient clinics, nursing homes and all other facilities, individuals or agencies providing diagnostic or treatment services to patients with cancer shall grant to the department or the authorized representative

access to all records which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified cancer patient. Willful failure to grant access to those records shall be punishable by a fine of up to five hundred dollars ($500) each day access is refused. Any fines collected pursuant to this subdivision shall be deposited in the General Fund.

(g) All information reported pursuant to this section shall be confidential as provided in Section 211.5, except that the state department and any regional cancer registry designated by the state department shall use the information to determine the sources of malignant neoplasms and evaluate measures designed to eliminate, alleviate, or ameliorate their effect. The state department and any regional cancer registry designated by the state department may enter into agreements to furnish confidential information to other states' cancer registries, federal cancer control agencies, local health officers, or health researchers for the purposes set forth in this subdivision if those out-of-state registries, agencies, officers, or researchers agree in writing to maintain the confidentiality of the information, and in the case of researchers, if they have obtained the approval of their committee for the protection of human subjects established in accordance with Part 46 (commencing with Section 46.101) of Title 45 of the Code of Federal Regulations.

(h) For the purpose of this section, "cancer" means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma, Hodgkins disease, and leukemia, but excluding basal cell and squamous cell carcinoma of the skin.

(i) Nothing in this section shall preempt the authority of facilities or individuals, providing diagnostic or treatment services to patients with cancer, to maintain their own facility-based tumor registries.

(j) It is the intent of the Legislature that the department, in establishing a system pursuant to this section, maximize the use of available federal funds.

SEC. 2. Section 215 is added to the Health and Safety Code, to read:

215. (a) The state department may perform any of the following activities relating to the protection, preservation, and advancement of public health:

(1) Studies.

(2) Demonstrations of innovative methods.

(3) Evaluations of existing projects.

(4) Provision of training programs.

(5) Dissemination of information.

(b) In performing an activity specified in subdivision (a), the state department may do any of the following:

(1) Perform the activity directly.

(2) Enter into contracts, cooperative agreements, or other agreements for the performance of the activity.

(3) Apply for and receive grants for the performance of the

activity.

(4) Award grants for the performance of the activity.

CHAPTER 413

An act to amend Section 53066.3 of the Government Code, relating to cable television.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 53066.3 of the Government Code is amended to read:

53066.3. (a) If a city, county, or city and county elects to grant an additional cable television franchise in an area where a franchise has already been granted to a cable television operator, it shall do so only after a public hearing noticed pursuant to Section 6066, in a newspaper of general circulation as defined in Section 6000, where all of the following have been considered:

(1) Whether there will be significant positive or negative impacts on the community being served.

(2) Whether there will be an unreasonable adverse economic or aesthetic impact upon public or private property within the area.

(3) Whether there will be an unreasonable disruption or inconvenience to existing users, or any adverse effect on future use, of utility poles, public easements, and the public rights-of-way contrary to the intent of Section 767.5 of the Public Utilities Code.

(4) Whether the franchise applicant has the technical and financial ability to perform.

(5) Whether there is any impact on the franchising authority's interest in having universal cable service.

(6) Whether other societal interests generally considered by franchising authorities will be met.

(7) Whether the operation of an additional cable television system in the community is economically feasible.

(8) Such other additional matters, both procedural and substantive, as the franchising authority may determine to be relevant.

(b) Nothing in this section prevents any city, county, or city and county from considering the approval or denial of an additional cable service franchise in any area of the city, county, or city and county, subject to compliance with subdivision (d), or the imposing of additional terms and conditions upon the granting of the franchise, as the city, county, or city and county determines is necessary or appropriate.

(c) The city, county, or city and county shall make a final

determination as to whether to grant the additional franchise within six months of the application date unless the jurisdiction can establish that the applicant has unreasonably delayed proceedings designed to consider the matters set forth in paragraphs (1) to (8), inclusive, of subdivision (a).

(d) Any additional franchise granted to provide cable television service in an area in which a franchise has already been granted and where an existing cable operator is providing service or certifies to the franchising authority that it is ready, willing, and able to provide service, shall require the franchisee to wire and serve the same geographical area within a reasonable time and in a sequence which does not discriminate against lower income or minority residents, and shall contain the same public, educational, and governmental access requirements that are set forth in the existing franchise. This subdivision does not apply where all existing cable operators certify to the franchising authority that they do not intend to provide service within a reasonable time to the area to be initially served by the additional franchise.

CHAPTER 414

An act to add Section 9314.5 to the Welfare and Institutions Code, relating to aging.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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, establish a grants-in-aid pilot project for the following purposes:

(1) To assist in the establishment of a new community-based long-term care program appropriate to an underserved or rural area.

(2) To assist in the development of case management in an area that currently has no case management services.

(3) To assist in the development of a home- and community-based long-term care service system that accommodates 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 the selected geographic area.

(b) To the extent feasible, within available funding, the pilot project shall:

(1) Be guided by existing policies of the department as now provided for in the Linkages Program with any flexibilities to be negotiated, placed in writing, and agreed upon by both the department and the grantee agency.

(2) Include the services of a minimum of one full-time professional and adequate clerical and fiscal support staff.

(c) The pilot project 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) per fiscal year.

(3) Demonstrate, to the satisfaction of the department, that the program area has existing services sufficient to permit an effective case management program to operate. This requirement shall be met within department 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 shall include an evaluation of the pilot project and the implementation of this section in its annual report to the Legislature pursuant to Section 9395.

CHAPTER 415

An act to amend Section 76132 of, and to add Section 76134 to, the Government Code, relating to criminal justice facilities.

[Approved by Governor July 25, 1990 Filed with Secretary of State July 26, 1990]

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

SECTION 1. Section 76132 of the Government Code is amended to read:

76132. (a) Provided that the board of supervisors has adopted a resolution stating that the provisions of this section are necessary to the establishment of adequate criminal justice facilities in the county, the following surcharges and additional penalties shall be collected, except that the resolution may limit the collection to the penalties specified in paragraph (2):

(1) Except as limited by resolution pursuant to this subdivision, 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 Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle 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) 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 additional penalty 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 subparagraph (C) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. This amount shall be deposited with the county treasurer and placed in the County Criminal Justice Facility Temporary Construction Fund.

(b) The surcharge and additional penalty increase imposed pursuant to this section shall continue so long as deposits to the County Criminal Justice Facility Temporary Construction Fund are required pursuant to subdivision (g).

(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 additional penalties established in the resolution adopted pursuant to this section, except as otherwise agreed upon by the local governmental entities involved.

(d) Notwithstanding any other provision of law, to assist Imperial County in the funding of county criminal justice facilities construction, the board of supervisors, operative upon the adoption of a resolution stating that the provisions of this section are necessary to the establishment of adequate county criminal justice facilities in the county, may establish in the county treasury a County Criminal Justice Facility Temporary Construction Fund. Deposits shall be made to the fund, as follows:

(1) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. These moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(2) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the

posting of bail for parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each bail violation which is not filed in court to the county treasurer. These payments to the county treasurer shall be made monthly, and the treasurer shall deposit all those payments in the fund.

(3) The county treasurer shall place all additional penalty amounts collected on nonparking offenses in the fund.

(e) The fund moneys together with any interest earned thereon shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the County Criminal Justice Facility Temporary Construction Fund together with any interest earned thereon shall be payable only for construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities. The money in the fund may be used through any public agency funding mechanism, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs, which reduce an obligation incurred in reliance upon the authority granted by this section.

(f) For purposes of this section, "county criminal justice facilities" includes, but is not limited to, jails, women's centers, detention facilities, juvenile halls, and courtrooms. Any new jail, or any addition to an existing jail that provides new cells or beds, which is constructed with moneys from the County Criminal Justice Facility Temporary Construction Fund shall comply with the "Minimum Standards for Local Detention Facilities" promulgated by the Board of Corrections.

(g) Deposits to the fund in accordance with paragraphs (1), (2), and (3) of subdivision (d) shall continue through and including the 20th year after the initial calendar year in which the surcharge and penalty are collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified in subdivision (d) or (e).

SEC. 2. Section 76134 is added to the Government Code, to read:

76134. (a) Provided that the board of supervisors has adopted a resolution stating that the provisions of this section are necessary for the improvement of criminal justice automated information systems and the establishment and maintenance of a criminal justice forensic laboratory in the county, 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 additional penalty 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 subparagraph (C) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. This amount shall be deposited with the county treasurer and placed in the County Criminal Justice Investigation Fund.

(b) The surcharge and additional penalty increase imposed pursuant to this section shall continue so long as deposits to the County Criminal Justice Investigation Fund are required pursuant to subdivision (f).

(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 additional penalties established in the resolution adopted pursuant to this section, except as otherwise agreed upon by the local governmental entities involved.

(d) Notwithstanding any other provision of law, to assist Imperial County in the improvement of criminal justice automated information systems and the funding and maintenance of a criminal justice forensic laboratory, the board of supervisors, operative upon the adoption of a resolution stating that the provisions of this section are necessary to the improvement of criminal justice automated information systems and the establishment of a criminal justice forensic laboratory in the county, may establish in the county treasury a County Criminal Justice Investigation Fund. The county treasurer shall place all additional penalty amounts collected pursuant to this section in the fund.

(e) The fund moneys together with any interest earned thereon shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the County Criminal Justice Investigation Fund together with any interest earned thereon shall be payable only for the improvement of criminal justice automated information systems and the construction, reconstruction, expansion, improvement, operation, or maintenance of the forensic laboratory facilities. The money in the fund may be used through any public agency funding mechanism, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs, which reduce an obligation incurred in reliance upon the authority granted by this section.

(f) Deposits to the fund in accordance with subdivision (d) shall continue through and including the fourth year after the initial calendar year in which the surcharge and additional penalty are collected.

CHAPTER 416

An act to add Section 8314 to the Government Code, relating to state resources.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 8314 is added to the Government Code, to read:

8314. (a) It shall be unlawful for any elected state officer, appointee, employee, or consultant, to use or permit others to use state resources for a campaign activity, or personal or other purposes which are not authorized by law.

(b) For purposes of this section:

(1) "Personal purpose" means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to state business. "Personal purpose" does not include an occasional telephone call, or an incidental and minimal use of state resources, such as equipment or office space, for personal purposes.

(2) "Campaign activity" means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. "Campaign activity" does not include the incidental and minimal use of state resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.

(3) "State resources" means any state property or asset, including, but not limited to, state land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state compensated time.

(4) "Use" means a use of state resources which is substantial enough to result in a gain or advantage to the user or a loss to the state for which a monetary value may be estimated.

(c) (1) Any person who intentionally or negligently violates this section shall be liable for a civil penalty not to exceed one thousand dollars ($1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of state resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.

(2) If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to

the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasurer of that city.

(3) No civil action alleging a violation of this section shall be commenced more than four years after the date the alleged violation occurred.

(d) Nothing in this section shall prohibit the use of state resources for providing information to the public about the possible effects of any bond issue or other ballot measure on state activities, operations, or policies, provided that (1) the informational activities are otherwise authorized by the constitution or laws of this state, and (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

CHAPTER 417

An act to amend Sections 51342, 51511, 51514, 51600, 51601, 51610, 51612.5, 51613, and 51646 of the Water Code, relating to reclamation districts.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 51342 of the Water Code is amended to read:

51342. The rate of interest on unpaid operation and maintenance assessments is 1½ percent per month commencing from the date of delinquency unless the board, by resolution, adopts a lesser rate and files a certified copy of the resolution with the county treasurer for insertion in the operation and maintenance assessment roll.

SEC. 2. Section 51511 of the Water Code is amended to read:

51511. Unpaid assessments on which bonds have been issued shall bear interest at the rate of 1½ percent per month from the date of the bonds originally issued thereon until the bonds and any refunding bonds issued thereon are fully paid, and the interest due at any time on the unpaid assessment may be called without calling any installment of the assessment. The word installment as used in this section shall be construed as applying to interest as well as the principal as the case may be.

SEC. 3. Section 51514 of the Water Code is amended to read:

51514. After the period of 30 days all unpaid original assessments shall bear interest at the rate of 1½ percent per month.

SEC. 4. Section 51600 of the Water Code is amended to read:

51600. After any installment of an unpaid assessment on which bonds have not been issued has become delinquent, the county

treasurer shall publish once a week for two weeks in some newspaper of general circulation published in each county where delinquency exists a notice containing a list of all delinquencies in the county. At the same time as the publication, the county treasurer shall mail the notice to the owner's last known address as shown on the latest county tax roll.

SEC. 5. Section 51601 of the Water Code is amended to read:

51601. The notice shall contain the following:

(a) A description of the parcels assessed, as described in the assessment list or operation and maintenance assessment roll or by reference number as set forth in the assessment list or roll on file in the office of the county treasurer (stating the date and time the list or roll was so filed), or by other appropriate reference thereto sufficient to identify the parcel, and shall refer to the assessment list or roll for further particulars.

(b) The name of the person to whom the parcel is assessed or a statement that it is assessed to unknown owners if that is the case.

(c) The amount of the delinquent installment, interest, and penalty due on the parcel calculated from the date of the call to the date of the sale if the delinquency is on an original unbonded assessment or from the date of delinquency to the date of sale if the delinquency is on an installment of an operation and maintenance assessment, together with a fee, to be determined by the district and the county treasurer, not to exceed the amount necessary to cover the costs incurred by the district and the county treasurer in conducting the sale.

(d) A notice that the parcel assessed will be sold by the county treasurer on the date therein stated, in front of the courthouse of the principal county to pay the amount of the installment with accrued interest, penalty, and costs.

(e) A notice that the sale may be avoided by payment prior thereto of the delinquent installment, penalty, and interest to the date of sale, plus a fee, to be determined by the district and the county treasurer, not to exceed the amount necessary to cover the costs incurred.

SEC. 6. Section 51610 of the Water Code is amended to read:

51610. If no bid is made for the parcel equal to the amount due thereon, the county treasurer shall sell the parcel to himself and his successors in office as trustee for the district for the amount due on the installment, together with penalty, interest, and costs as prescribed in Section 51601.

SEC. 7. Section 51612.5 of the Water Code is amended to read:

51612.5. The county treasurer, at least 60 days prior to the expiration of the redemption period, shall give notice by registered mail of the fact of sale, the purchase price paid, the date of termination of the redemption period, and the fact that a failure to redeem by payment of the purchase price plus interest following the date of the sale, and plus costs incurred as a result of the sale to the county treasurer within the redemption period will result in

permanent loss of the property by issuance of a treasurer's deed. The notice shall be mailed to the owner's last known address as shown on the last equalized county assessment roll. The notice shall also be mailed to any other person or entity holding an interest in the parcel requesting notice by written instrument identifying the parcel filed with the district office, and mailed to the address specified in the request. The district may impose a charge for each request.

Notwithstanding Section 51646, if the county treasurer fails to give the notice, the redemption period set forth in Section 51646 shall be extended to the date 60 days following the date of mailing of the notice in the manner provided for in this section.

SEC. 8. Section 51613 of the Water Code is amended to read:

51613. Any person interested in the parcel may redeem it at any time within one year after the sale by paying to the county treasurer the amount for which it was sold, with interest thereon at the rate of 1½ percent per month from the date of the sale, together with reasonable costs incurred by the county treasurer and the district as a result of the delinquency sale and redemption.

SEC. 9. Section 51646 of the Water Code is amended to read:

51646. Any person interested in the parcel may redeem it within one year after the date of sale, by paying to the county treasurer for the purchaser a sum equal to the purchase price stated in the certificate with interest thereon at the rate of 1½ percent per month from the date of sale to that redemption, either in whole or in part, in cash or in bonds of the district, or their interest coupons, issued on the assessment and then matured, or to mature within 60 days from the date of payment.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 418

An act to add Section 19827.5 to the Health and Safety Code, relating to demolition permits.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990]

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

SECTION 1. Section 19827.5 is added to the Health and Safety Code, to read:

19827.5. A demolition permit shall not be issued by any city, county, city and county, or state or local agency which is authorized to issue demolition permits as to any building or other structure except upon the receipt from the permit applicant of a copy of each written asbestos notification regarding the building that has been required to be submitted to the United States Environmental Protection Agency or to a designated state agency, or both, pursuant to Part 61 of Title 40 of the Code of Federal Regulations, or the successor to that part. The permit may be issued without the applicant submitting a copy of the written notification if the applicant declares that the notification is not applicable to the scheduled demolition project. The permitting agency may require the applicant to make the declaration in writing, or it may incorporate the applicant's response on the demolition permit application. Compliance with this section shall not be deemed to supersede any requirement of federal law.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 419

An act to amend Section 31580.2 of, and to add Sections 20569.3, 31459.1, 31521.1, 31535.1, and 31657 to, the Government Code, relating to county retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1990 Filed with Secretary of State July 26, 1990]

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

SECTION 1. Section 20569.3 is added to the Government Code, to read:

20569.3. Notwithstanding any other provision of this article, the board may, pursuant to this section and Section 31657, enter into an agreement with the board of retirement of a county maintaining a retirement system established under the County Employees Retirement Law of 1937, for termination of participation of a city whose contract has been in effect for at least five years in this system with respect to certain local safety members who have ceased to be employed by the city and have been employed by a county or district as a result of a transfer of firefighting or law enforcement functions

from the city to the county or district and inclusion of the former city employees in that county system. The agreement shall contain such provisions as the board finds necessary to protect the interests of the system for determination of the amount, time, manner of transfer of cash or the securities, or both, to be transferred to the county system as representing the actuarial value of the interests in the retirement fund of the city and the transferred employees by reason of accumulated contributions credited to that city and the employees transferred. The agreement shall apply only to employees who are employed by the county or district on the effective date of the agreement. All liability of this system with respect to the members transferred under that agreement shall cease and shall become the liability of the county system as of the date of transfer specified in the agreement. Liability of the county system shall be for payment of benefits to transferred employees in accordance with the County Employees Retirement Law of 1937. Any member transferred who becomes a member of a county system upon that transfer date shall be subject to provisions of this part and of the County Employees Retirement Law of 1937 extending rights to a member or subjecting him or her to limitations because of membership in another retirement system to the same extent that he or she would have been had he or she been a member of the county system during his or her membership in this system.

This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 2. Section 31459.1 is added to the Government Code, to read:

31459.1. (a) In a county in which a board of investments has been established pursuant to Section 31520.2:

(1) As used in Sections 31453, 31453.5, 31454, 31454.1, 31454.5, 31472, 31588.1, 31589.1, 31591, and the first paragraph of Section 31592.2, Sections 31592.3, 31594, the first paragraph and subdivision (c) of the second paragraph of Section 31595, Sections 31595.1, 31595.9, 31596, 31596.1, 31601.1, 31607, 31610, 31611, 31612, 31613, 31616, 31618, 31621.11, 31625, 31639.26, 31784, and 31872, "board" means board of investments.

(2) Sections 31521, 31522, 31522.1, 31522.2, 31523, 31524, 31525, subdivision (a) of Section 31526, Sections 31528, 31529, 31529.5, 31580.2, subdivisions (a) and (b) of the second paragraph of Section 31595, Sections 31614, 31680 and 31680.1, apply to both the board of retirement and board of investments, and "board" means both or either board of retirement and board of investments.

(b) In Article 17 (commencing with Section 31880) of this chapter, "board" means the Board of Administration of the Public Employees' Retirement System.

(c) In all other cases, "board" means the board of retirement.

(d) This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes

of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 3. Section 31521.1 is added to the Government Code, to read:

31521.1. The board of supervisors may provide that the fourth and fifth members, and in counties having a board consisting of nine members, the fourth, fifth, sixth, eighth, and ninth members, and in counties having a board of investments under Section 31520.2, the fifth, sixth, seventh, eighth, and ninth members of the board of investments, shall receive compensation at a rate of not more than one hundred dollars ($100) a meeting, or meeting of a committee authorized by a vote of six members of the board, for not more than three meetings per month, together with actual and necessary expenses for all members of the board.

This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 4. Section 31535.1 is added to the Government Code, to read:

31535.1. The board may issue subpoenas and subpoenas duces tecum, and compensate persons subpoenaed. This power shall be exercised and enforced in the same manner as the similar power granted the board of supervisors in Article 9 (commencing with Section 25170) of Chapter 1 of Part 2 of Division 2 of this title; except that the power shall extend only to matters within the retirement board's jurisdiction, and committees of the board shall not have this power. Reasonable fees and expenses may be provided for by board regulation for any or all of the witnesses regardless of which party subpoenaed them.

Subpoenas shall be signed by the chairman or secretary of the retirement board, except that the board may by regulation provide for express written delegation of its subpoena power to the retirement administrator or to any referee it appoints pursuant to this chapter.

Any member of the board, the referee, or any person otherwise empowered to issue subpoenas may administer oaths to, or take depositions from, witnesses before the board or referee.

This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 5. Section 31580.2 of the Government Code is amended to read:

31580.2. In counties where the board of retirement and board of investment have appointed personnel pursuant to Section 31522.1, the respective boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the retirement fund. The expense incurred in any year shall not exceed eighteen-hundredths of 1 percent of the total assets of the retirement

system.

SEC. 6. Section 31657 is added to the Government Code, to read:

31657. Subject to Section 20569.3, whenever, as a result of the assumption by a county or district of firefighting or law enforcement functions performed by a city subject to the Public Employees' Retirement Law, any person ceases to be employed by a city and is employed by a county or district in which this chapter has become operative, that person shall become a member of the retirement association of a county immediately upon entrance to the county service. That member of the county retirement system shall be entitled to service credit in the county retirement system for the service for which he or she was entitled to credit in the Public Employees' Retirement System at the time of cessation of employment by the city, without necessity of payment of any additional contributions in respect to that service, when and if all of the following occur:

(a) The board of retirement receives certification from the Board of Administration of the Public Employees' Retirement System of the service with which the person was entitled to be credited by the Public Employees' Retirement System at the time of cessation of his or her city employment.

(b) There is paid into the county retirement fund of the county, an amount equal to the normal contributions of the person to the Public Employees' Retirement System, together with the interest credited thereto, which amount shall be credited to the individual account of the member in the county retirement system, and shall thereafter for all purposes be deemed to be the member's contribution to the county retirement system with respect to the service so certified.

(c) There is paid to the retirement system of the county an amount equal to the contributions of the city made to the Public Employees' Retirement System on account of service rendered by the person together with interest credited to the city thereto.

(d) The board of retirement elects to apply this section as a prudent means of mitigating against potential adverse financial impact upon the county retirement system from the cost of disability retirements that may be applied for in the future by persons injured while being employed by the county or district after ceasing to be employed by a city as a result of the assumption by a county or district of firefighting or law enforcement functions.

This section shall apply only in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

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 that the administration of the Los Angeles County Retirement System may be expeditiously clarified at the earliest

possible time, it is necessary that this act take effect immediately.

CHAPTER 420

An act to amend Section 8880.33 of the Government Code, relating to the state lottery.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 8880.33 of the Government Code is amended to read:

8880.33. Distribution of Tickets and Shares

(a) The commission shall promulgate rules and regulations specifying the manner of distribution, dissemination, or sale of lottery tickets or shares to lottery game retailers or directly to the public, and the incentives, if any, for lottery employees engaged in the distribution activities.

(b) The commission shall also make available upon request to lottery game retailers a model agreement to govern the division of prizes among multiple purchasers of a winning ticket or tickets purchased through a group purchase or pooling arrangement.

SEC. 2. The Legislature finds and declares that the purchase of a single lottery ticket or a block of tickets by a group of people is a common and legitimate practice. However, the absence of written agreements among the ticket purchasers often leads to unnecessary confusion and disputes. The purpose of this act is to assist people in entering into agreements prior to the purchase of tickets. Nothing in this act is intended to alter or affect subdivision (g) of Section 8880.32 of the Government Code regarding the nonassignability of prizes or to change any existing lottery regulations or practices except as specified in this act.

SEC. 3. The Legislature finds and declares that this act furthers the purpose of the California State Lottery Act of 1984.

CHAPTER 421

An act to amend and repeal Section 798.80 of the Civil Code, relating to mobilehome parks.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 798.80 of the Civil Code is amended to read:

798.80. (a) Not less than 30 days nor more than one year prior to an owner of a mobilehome park entering into a written listing agreement with a licensed real estate broker, as defined in Article 1 (commencing with Section 10130) of Chapter 2 of Part 1 of Division 4 of the Business and Professions Code, for the sale of the park, or offering to sell the park to any party, the owner shall provide written notice of his or her intention to sell the mobilehome park by first-class mail or by personal delivery to the president, secretary, and treasurer of any resident organization formed by homeowners in the mobilehome park as a nonprofit corporation, stock cooperative corporation, or other entity for purposes of converting the mobilehome park to condominium or stock cooperative ownership interests and for purchasing the mobilehome park from the management of the mobilehome park. An offer to sell a park shall not be construed as an offer under this subdivision unless it is initiated by the park owner or agent.

(b) An owner of a mobilehome park shall not be required to comply with subdivision (a) unless the following conditions are met:

(1) The resident organization has first furnished the park owner or park manager a written notice of the name and address of the president, secretary, and treasurer of the resident organization to whom the notice of sale shall be given.

(2) The resident organization has first notified the park owner or manager in writing that the park residents are interested in purchasing the park. The initial notice by the resident organization shall be made prior to a written listing or offer to sell the park by the park owner, and the resident organization shall give subsequent notice once each year thereafter that the park residents are interested in purchasing the park.

(3) The resident organization has furnished the park owner or park manager a written notice, within five days, of any change in the name or address of the officers of the resident organization to whom the notice of sale shall be given.

(c) Nothing in this section affects the validity of title to real property transferred in violation of this section, although a violation shall subject the seller to civil action pursuant to Article 8 (commencing with Section 798.84) by homeowner residents of the park or the resident organization.

(d) Nothing in this section affects the ability of a licensed real estate broker, as defined in Article 1 (commencing with Section 10130) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, to collect a commission pursuant to an executed contract between the broker and the mobilehome park owner.

(e) Subdivision (a) does not apply to any of the following:

(1) Any sale or other transfer by a park owner who is a natural person to any relation specified in Section 6401 or 6402 of the Probate Code.

(2) Any transfer by gift, devise, or operation of law.

(3) Any transfer by a corporation to an affiliate. As used in this paragraph, "affiliate" means any shareholder of the transferring corporation, any corporation or entity owned or controlled, directly or indirectly, by the transferring corporation, or any other corporation or entity controlled, directly or indirectly, by any shareholder of the transferring corporation.

(4) Any transfer by a partnership to any of its partners.

(5) Any conveyance resulting from the judicial or nonjudicial foreclosure of a mortgage or deed of trust encumbering a mobilehome park or any deed given in lieu of such a foreclosure.

(6) Any sale or transfer between or among joint tenants or tenants in common owning a mobilehome park.

(7) The purchase of a mobilehome park by a governmental entity under its powers of eminent domain.

(f) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

CHAPTER 422

An act to add Section 1723 to the Civil Code, relating to sales.

[Approved by Governor July 25, 1990 Filed with Secretary of State July 26, 1990.]

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

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

(a) Consumers have a right to know before purchase whether and under what circumstances merchandise may be returned.

(b) The great majority of retail stores have policies allowing for refund, credit, or equal exchange when goods are returned within a reasonable time period.

(c) People have come to expect these kinds of policies from retailers when there is no notice to the contrary.

(d) A consumer aware of inadequate refund policies is better able to make informed buying decisions.

(e) Consumers and retailers with reasonable refund policies deserve the protection of a requirement that those retailers who do not permit refunds, credit, or exchange for goods returned within a specified time shall inform consumers of their return policies before goods are purchased.

SEC. 2. Section 1723 is added to the Civil Code, to read:

1723. (a) Every retail seller which sells goods to the public in this state that has a policy as to any of those goods of not giving full cash or credit refunds, or of not allowing equal exchanges, or any combination thereof, for at least seven days following purchase of the goods if they are returned and proof of their purchase is presented, shall conspicuously display that policy either on signs posted at each cash register and sales counter, at each public entrance, on tags attached to each item sold under that policy, or on the retail seller's order forms, if any. This display shall state the store's policy, including, but not limited to, whether cash refund, store credit, or exchanges will be given for the full amount of the purchase price; the applicable time period; the types of merchandise which are covered by the policy; and any other conditions which govern the refund, credit, or exchange of merchandise.

(b) This section does not apply to food, plants, flowers, perishable goods, goods marked "as is," "no returns accepted," "all sales final," or with similar language, goods used or damaged after purchase, customized goods received as ordered, goods not returned with their original package, and goods which cannot be resold due to health considerations.

(c) (1) Any retail store which violates this section shall be liable to the buyer for the amount of the purchase if the buyer returns, or attempts to return, the purchased goods on or before the 30th day after their purchase.

(2) Violations of this section shall be subject to the remedies provided in the Consumers Legal Remedies Act (Title 1.5 (commencing with Section 1750) of Part 4).

(3) The duties, rights, and remedies provided in this section are in addition to any other duties, rights, and remedies provided by state law.

CHAPTER 423

An act to add Chapter 15.6 (commencing with Section 67385) to Part 40 of, and Chapter 3.8 (commencing with Section 94385) to Part 59 of, the Education Code, relating to postsecondary education.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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

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

(1) Assembly Concurrent Resolution 46 (Resolution Chapter 105 of the Statutes of 1987) made important legislative findings relative to the high incidence of rape on college or university campuses, including that campus sexual assaults are often underreported by the victims, that in many instances, the perpetrators of those assaults receive little or no punishment, and that most institutions do not have formal policies or procedures that deal adequately with those sexual assaults.

(2) Assembly Concurrent Resolution 46 declared the intent of the Legislature that all institutions of higher education in the state should be required to establish and utilize clear and consistent sexual assault policies which may be incorporated into the current disciplinary policies of each campus, as prescribed. Assembly Concurrent Resolution 46 additionally stated legislative intent that institutions of higher education be required to provide information to the victims of alleged incidents of rape regarding available options that he or she may pursue, and that the institution should respond promptly to the option selected by the victim.

(3) Despite the statements of legislative intent expressed in Assembly Concurrent Resolution 46, institutions of higher education have failed to adequately respond to the provisions of that measure.

(b) It is the intent of the Legislature in enacting this act to require each public postsecondary educational institution and each private postsecondary educational or vocational educational institution to adopt and implement written procedures or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are the victims of sexual assaults receive appropriate treatment and information, or appropriate referrals to local community treatment centers.

(c) It is further the intent of the Legislature that the requirements prescribed by this act shall supplement, and shall not supplant, the provisions of Assembly Concurrent Resolution 46.

SEC. 2. Chapter 15.6 (commencing with Section 67385) is added to Part 40 of the Education Code, to read:

CHAPTER 15.6. STUDENT SAFETY

67385. (a) The governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Board of Governors of the California Maritime Academy, and the Regents of the University of California shall each adopt, and implement at each of their respective campuses or other facilities, a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are victims of sexual assault committed at or upon the grounds of, or upon off-campus grounds or facilities maintained by the institution, or upon grounds or facilities maintained by affiliated student organizations, shall receive treatment and information. If appropriate on-campus treatment facilities are unavailable, the written procedure on protocols may provide for referrals to local community treatment centers.

(b) The written procedures or protocols adopted pursuant to subdivision (a) shall contain at least the following information:

(1) The college policy regarding sexual assault on campus.

(2) Personnel on campus who should be notified, and procedures for notification, with the consent of the victim.

(3) Legal reporting requirements, and procedures for fulfilling them.

(4) Services available to victims, and personnel responsible for providing these services, such as the person assigned to transport the victim to the hospital, to refer the victim to a counseling center, and to notify the police, with the victim's concurrence.

(5) A description of campus resources available to victims, as well as appropriate off-campus services.

(6) Procedures for ongoing case management, including procedures for keeping the victim informed of the status of any student disciplinary proceedings in connection with the sexual assault, and the results of any disciplinary action or appeal, and helping the victim deal with academic difficulties that may arise because of the victimization and its impact.

(7) Procedures for guaranteeing confidentiality and appropriately handling requests for information from the press, concerned students, and parents.

(8) Each victim of sexual assault should receive information about the existence of at least the following options: criminal prosecutions, civil prosecutions, the disciplinary process through the college, the availability of mediation, alternative housing assignments, and academic assistance alternatives.

(c) Each segment of higher education shall implement this chapter from existing funds and resources available to it.

(d) For the purposes of this section, "sexual assault" includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

67386. No provision of this chapter shall apply to the Board of

Directors of the Hastings College of the Law or to the Regents of the University of California unless the board of directors or the regents, as appropriate, adopt a resolution to make those provisions applicable.

SEC. 3. Chapter 3.8 (commencing with Section 94385) is added to Part 59 of the Education Code, to read:

CHAPTER 3.8. STUDENT SAFETY

94385. (a) Each private postsecondary educational institution and private vocational educational institution, as those terms are defined in Section 94302, shall each adopt, and implement at each of their respective campuses or other facilities, a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are victims of sexual assault committed at or upon the grounds of, or upon off-campus grounds or facilities maintained by the institution, or upon grounds or facilities maintained by affiliated student organizations, shall receive treatment and information. If appropriate on-campus treatment facilities are unavailable, the written procedure on protocols may provide for referrals to local community treatment centers.

(b) The written procedures or protocols adopted pursuant to subdivision (a) shall contain at least the following information:

(1) The college policy regarding sexual assault on campus.

(2) Personnel on campus who should be notified, and procedures for notification, with the consent of the victim.

(3) Legal reporting requirements, and procedures for fulfilling them.

(4) Services available to victims, and personnel responsible for providing these services, such as the person assigned to transport the victim to the hospital, to refer the victim to a counseling center, and to notify the police, with the victim's concurrence.

(5) A description of campus resources available to victims, as well as appropriate off-campus services.

(6) Procedures for ongoing case management, including procedures for keeping the victim informed of the status of any student disciplinary proceedings in connection with the sexual assault, and the results of any disciplinary action or appeal, and helping the victim deal with academic difficulties that may arise because of the victimization and its impact.

(7) Procedures for guaranteeing confidentiality and appropriately handling requests for information from the press, concerned students, and parents.

(8) Each victim of sexual assault should receive information about the existence of at least the following options: criminal prosecutions, civil prosecutions, the disciplinary process through the college, the availability of mediation, alternative housing assignments, and academic assistance alternatives.

(c) For the purposes of this section, "sexual assault" includes, but

is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

CHAPTER 424

An act to amend Section 602 of the Penal Code, relating to crimes.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 602 of the Penal Code is amended to read:

602. Notwithstanding Section 602.8, every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on those lands.

(c) Maliciously injuring or severing from the freehold of another anything attached to it, or its produce.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of the city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard, or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road, or a highway, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention to it.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any such lands, whether covered by water or not,

without the license of the owner or legal occupant; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands.

(h) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(i) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering the lands, without first having obtained written permission from the owner of the lands or the owner's agent, or the person in lawful possession.

(j) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of the land, the owner's agent or by the person in lawful possession.

(k) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands without the written permission of the owner of the land, the owner's agent or of the person in lawful possession, and

(1) Refusing or failing to leave the lands immediately upon being requested by the owner of the land, the owner's agent or by the person in lawful possession to leave the lands, or

(2) Tearing down, mutilating, or destroying any sign, signboard, or notice forbidding trespass or hunting on the lands, or

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into the lands, or

(4) Discharging any firearm.

(*l*) Entering and occupying real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession.

(m) Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to or lawfully occupied by another and known not to be open to the general public, without the consent of the owner, the owner's agent, or the person in lawful possession.

(n) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (1) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that

he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, or (2) the owner, the owner's agent, or the person in lawful possession. The owner, the owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed 30 days and identified by specific dates, during which there is a fire hazard or the owner, owner's agent or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed six months when the premises or property is closed to the public and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the California Agricultural Labor Relations Act, Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code, or by the National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety Code constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and who are not loitering or otherwise suspected of violating or actually violating any law or ordinance.

(o) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code, if the closed areas shall have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through the lands.

(p) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances are such as to indicate to a reasonable person that the person has no apparent lawful business to pursue.

(q) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure.

(r) Refusing or failing to leave a hotel or motel, where he or she has obtained accommodations and has refused to pay for those accommodations, upon request of the proprietor or manager, and the occupancy is exempt, pursuant to subdivision (b) of Section 1940 of the Civil Code, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(s) Entering upon private property, including contiguous land, real property, or structures thereon belonging to the same owner,

whether or not generally open to the public, after having been informed by a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, that the property is not open to the particular person; or refusing or failing to leave the property upon being asked to leave the property in the manner provided in this subdivision.

This subdivision shall apply only to a person who has been convicted of a violent felony, as specified in subdivision (c) of Section 667.5, committed upon the particular private property. A single notification or request to the person as set forth above shall be valid and enforceable under this subdivision unless and until rescinded by the owner, the owner's agent, or the person in lawful possession of the property.

(t) (1) Knowingly entering, by an unauthorized person, upon any airport operations area if the area has been posted with notices restricting access to authorized personnel only and the postings occur not greater than every 150 feet along the exterior boundary.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) By a fine not exceeding one hundred dollars ($100).

(B) By imprisonment in the county jail not exeeceding six months, or by a fine not exceeding one thousand dollars ($1,000), or both, if the person refuses to leave the airport operations area after being requested to leave by a peace officer.

(C) By imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or both, for a second or subsequent offense.

(3) As used in this subdivision the following definitions shall control:

(A) "Airport operations area" means that part of the airport used by aircraft for landing, taking off, surface maneuvering, loading and unloading, refueling, parking, or maintenance, where aircraft support vehicles and facilities exist, and which is not for public use or public vehicular traffic.

(B) "Authorized personnel" means any person who has a valid airport identification card issued by the airport operator or has a valid airline identification card recognized by the airport operator, or any person not in possession of an airport or airline identification card who is being escorted for legitimate purposes by a person with an airport or airline identification card.

(C) "Airport" means any facility whose function is to support commerical aviation.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 425

An act to add Section 25503.27 to, and to repeal and add Section 25511 of, the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 25503.27 is added to the Business and Professions Code, to read:

25503.27. (a) Anything in this division to the contrary notwithstanding, any manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, distiller, bottler, importer, wholesaler, or any officer, director, agent, or representative of any such person, may provide to licensed retailers and the employees of those retailers who are involved in the business decisions of those retailers, both of the following:

(1) Food and beverages for consumption at a meeting at which the primary purpose is the discussion of business, and local ground transportation to and from those meetings.

(2) Tickets or admission to athletic activities or to other forms of entertainment, food and beverages for consumption at those activities, and local ground transportation to and from those activities.

(b) For purposes of this section, any allowable expenditure shall be for an activity for which some portion of the expenditure is deductible as a business entertainment expense under the Internal Revenue Code. The value of any food, beverage, local ground transportation, or tickets or admission to activities or other forms of entertainment provided under subdivision (a) shall not be considered the advancement of moneys or other things of value within the meaning of Sections 25500, 25502, and 25600.

SEC. 1.5. Section 25511 of the Business and Professions Code is repealed.

SEC. 2. Section 25511 is added to the Business and Professions Code, to read:

25511. Notwithstanding any other provision of this division, a beer manufacturer or beer wholesaler, or any officer, director, or

agent of any of those persons may furnish, give, rent, lend, or sell, directly or indirectly, any equipment, fixtures, or supplies, other than alcoholic beverages, to a retailer whose equipment, fixtures, or supplies were lost or damaged as a result of a natural disaster and whose premises are located in an area proclaimed to be in a state of disaster by the Governor.

This section does not apply to transactions which occur six weeks or more after the Governor proclaims an area to be in a state of disaster.

Nothing in this section is intended to affect or otherwise limit Section 23104.1, 23104.2, or 23104.3.

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 have in effect at the earliest possible time a disaster policy to assist alcoholic beverage retailers who experience a loss because of a natural disaster, as well as clear rules governing marketing activities, it is necessary that this act take effect immediately.

CHAPTER 426

An act to add Section 65852.5 to the Government Code, relating to manufactured housing.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 65852.5 is added to the Government Code, to read:

65852.5. Notwithstanding the provisions of Section 65852.3, no city, including a charter city, county, or city and county, may impose size requirements for a roof overhang of a manufactured home subject to the provisions of Section 65852.3, unless the same size requirements also would be imposed on a conventional single-family residential dwelling constructed on the same lot.

CHAPTER 427

An act to amend and repeal Section 977.2 of, and to repeal Section 977.3 of, the Penal Code, relating to criminal proceedings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990]

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

SECTION 1. Section 977.2 of the Penal Code is amended to read:

977.2. (a) Notwithstanding Section 977, the board of supervisors of any California county may establish a pilot project. The board shall establish the project with the approval of the presiding judge, the district attorney, and the public defender. The project shall be developed in close consultation between the presiding judge, the district attorney, the public defender, and the sheriff, and shall not exceed four years in duration.

(b) The project shall permit the initial arraignment in municipal or superior court, in all counties, of defendants held in any state, county, or local penal facility within the county on felony or misdemeanor charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audio video communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. The defendant may be accompanied by his or her attorney, and may enter a plea, during the arraignment. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests.

(c) Each county conducting a pilot project pursuant to this section shall submit reports to the Legislative Analyst no later than September 30 of each year. The report shall include the following data:

(1) The number of add-on pleas, and the number of cases disposed of, through the use of audio video arraignment.

(2) The number of defendants who refuse to sign the waiver of personal appearance and are transported to the courtroom to be physically present for the arraignment proceedings.

(3) The number and impact of add-on defendants arraigned.

(4) Initial costs and maintenance costs of the project.

(5) Cost savings, including transportation costs, over the previous method of arraignment.

(6) The impact of audio video arraignment on all participants in the procedures used under this section, including, but not limited to, security personnel, attorneys, judges, defendants, and court employees.

(7) Any other benefits or problems incurred.

(8) Any future plans for the project.

Other specific data for inclusion in the report may be specified by the Judicial Council.

(d) The Legislative Analyst shall review and summarize all data submitted by the counties and shall submit a final report on the fiscal effects of this section along with any recommendations to the Legislature no later than December 1, 1991. The Judicial Council shall submit a final report on the nonfiscal, policy consequences of this section along with any recommendations to the Legislature no later than December 1, 1991.

(e) Notwithstanding any other provision of this section, a judge may order a defendant's personal appearance in court for arraignment, and shall not pursuant to this section accept a plea of guilty or no contest from a defendant not physically in the courtroom.

(f) 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 on or before January 1, 1993, deletes or extends that date.

SEC. 2. Section 977.3 of the Penal Code is repealed.

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

In order to enhance public safety and security in the courts of California by establishing two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom for arraignment proceedings, it is necessary that this act take effect immediately.

CHAPTER 428

An act to amend Section 36 of the Code of Civil Procedure, relating to courts.

[Approved by Governor July 25, 1990 Filed with Secretary of State July 26, 1990]

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

SECTION 1. Section 36 of the Code of Civil Procedure is amended to read:

36. (a) A party to a civil action who is over the age of 70 years may petition the court for a preference, which the court shall grant if the court makes all of the following findings:

(1) The party has a substantial interest in the action as a whole.

(2) The health of the party is such that a preference is necessary to prevent prejudicing the party's interest in the litigation.

(b) A civil action to recover damages for wrongful death or

personal injury shall be entitled to preference upon the motion of any party to the action who is under the age of 14 years unless the court finds that the party does not have a substantial interest in the case as a whole. A civil action subject to subdivision (a) shall be given preference over a case subject to this subdivision.

(c) Unless the court otherwise orders, notice of a motion for preference shall be served with the memorandum to set or the at-issue memorandum by the party serving the memorandum, or 10 days after such service by any other party; or thereafter during the pendency of the action upon the application of a party who reaches the age of 70 years.

(d) In its discretion, the court may also grant a motion for preference served with the memorandum to set or the at-issue memorandum and accompanied by clear and convincing medical documentation which concludes that one of the parties suffers from an illness or condition raising substantial medical doubt of survival of that party beyond six months, and which satisfies the court that the interests of justice will be served by granting the preference.

(e) Notwithstanding any other provision of law, the court may in its discretion grant a motion for preference served with the memorandum to set or the at-issue memorandum and accompanied by a showing of cause which satisfies the court that the interests of justice will be served by granting this preference.

(f) Upon the granting of such a motion for preference, the clerk shall set the matter for trial not more than 120 days from that date and there shall be no continuance beyond 120 days from the granting of the motion for preference except for physical disability of a party or a party's attorney, or upon a showing of good cause stated in the record. Such a continuance shall be for no more than 15 days and no more than one continuance for physical disability may be granted to any party.

(g) Upon the granting of a motion for preference pursuant to subdivision (b), a party in an action based upon a health provider's alleged professional negligence, as defined in Section 364, shall receive a trial date not sooner than six months and not later than nine months from the date that the motion is granted.

CHAPTER 429

An act to amend Sections 23112.5, 34003, 34500, 34501.2, 34506, and 40000.21 of, to add Sections 31309 and 40000.70 to, and to repeal Section 31300 of, the Vehicle Code, relating to vehicles.

[Approved by Governor July 25, 1990 Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 23112.5 of the Vehicle Code is amended to read:

23112.5. Any person who dumps, spills, or causes the release of hazardous material, as defined by Section 353, or hazardous waste, as defined by Section 25117 of the Health and Safety Code, upon any highway shall notify the Department of the California Highway Patrol or the agency having traffic jurisdiction for that highway of the dump, spill, or release, as soon as the person has knowledge of the dump, spill, or release and notification is possible. Any person who is convicted of a violation of this section shall be punished by a mandatory fine of not less than two thousand dollars ($2,000).

SEC. 2. Section 31300 of the Vehicle Code is repealed.

SEC. 3. Section 31309 is added to the Vehicle Code, to read:

31309. Notwithstanding Section 34500 and subdivision (a) of Section 34501, the transportation of hazardous materials in a manner requiring that placards be displayed on the transporting vehicle pursuant to Section 27903, shall comply with regulations adopted by the California Highway Patrol pursuant to subdivision (b) of Section 34501.

SEC. 4. Section 34003 of the Vehicle Code is amended to read:

34003. As used in this division:

(a) "Cargo tank" means any container having a volumetric capacity in excess of 120 gallons that is used for the transportation of flammable liquids or combustible liquids. This term includes pumps, meters, valves, fittings, piping, and other appurtenances attached to a tank vehicle and used in connection with the flammable liquids or combustible liquids being transported in the cargo tank.

"Cargo tank" does not, however, include (1) any tank used only to carry fuel necessary for the operation of the vehicle or any equipment of the vehicle, or (2) any stationary fuel dispensing storage tank or mobile meter calibration unit containing only residue, not to exceed 120 gallons. For purposes of this subdivision, "residue" means the liquid material remaining after a tank has been unloaded to the maximum extent practicable through the normal discharge opening.

(b) "Tank vehicle" means any truck, trailer, or semitrailer equipped with a cargo tank which is used for the transportation of flammable liquids or combustible liquids within this state.

(c) "Flammable liquids" and "combustible liquids" mean such substances as defined by the regulations adopted by the commissioner pursuant to Section 2402.7.

SEC. 5. Section 34500 of the Vehicle code is amended to read:

34500. The Department of the California Highway Patrol shall regulate the safe operation of the following vehicles:

(a) Motortrucks of three or more axles which are more than 6,000 pounds unladen weight.

(b) Truck tractors.

(c) Buses, schoolbuses, youth buses, and general public paratransit vehicles.

(d) Trailers and semitrailers designed or used for the transportation of more than 10 persons, and the towing motor vehicle.

(e) Trailers and semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with vehicles listed in subdivisions (a), (b), (c), and (d). This subdivision does not apply to camp trailers, trailer coaches, and utility trailers.

(f) Any combination of a motortruck and any vehicle or vehicles set forth in subdivision (e) that exceeds 40 feet in length when coupled together.

(g) Any truck, or any combination of a truck and any other vehicle, transporting hazardous materials.

(h) Manufactured homes which, when moved upon the highway, are required to be moved under a permit as specified in Section 35780 or 35790.

(i) A park trailer, as defined in subdivision (f) of Section 799.24 of the Civil Code, which, when moved upon a highway, is required to be moved under a permit pursuant to Section 35780.

(j) Any other motortruck not specified in subdivisions (a) to (h), inclusive, that is regulated by the Public Utilities Commission or the Interstate Commerce Commission, but only for matters relating to hours of service and logbooks of drivers.

SEC. 6. Section 34501.2 of the Vehicle Code is amended to read:

34501.2. (a) The regulations adopted pursuant to Section 34501, except as provided in this subdivision and subdivision (b), shall establish limitations on driving hours for motor vehicles subject thereto that are consistent with the hours-of-service requirements adopted by the United States Department of Transportation in Part 395 of Title 49 of the Code of Federal Regulations, as those regulations now exist or are hereafter amended. Driving hours and onduty status shall not begin following less than eight consecutive hours off duty. Drivers' hours shall be regulated from the time a driver first reports for duty for any employer. A driver who accumulates eight hours off duty resting in a sleeper berth in not more than two separate periods totaling at least eight hours, neither of which is less than two hours, is in compliance with the requirement for eight consecutive hours of offduty time.

(b) The regulations adopted pursuant to Section 34501 shall

establish the following exceptions to subdivision (a):

(1) A driver may be permitted or required to drive for more than the number of hours specified in subdivision (a) if the excess hours are due to snow, sleet, fog, or other adverse conditions of weather, road, or traffic. This extended driving period shall be permitted even though the adverse conditions were known before the trip began.

(2) In the event of a traffic accident, medical emergency, or disaster, a driver may complete the trip if the trip could reasonably have been completed under normal conditions within the time specified in subdivision (a).

(3) Other exceptions applicable to drivers assigned to governmental fire suppression and prevention, as determined appropriate by the Department of the California Highway Patrol.

(4) The maximum driving time within a work period is 12 hours if the vehicle is engaged solely in intrastate commerce and is not transporting hazardous substances or hazardous wastes as defined by regulations of the United States Department of Transportation in Section 171.8 of Title 49 of the Code of Federal Regulations, as that section now exists or is hereafter amended.

SEC. 7. Section 34506 of the Vehicle Code is amended to read:

34506. It is a misdemeanor to fail to comply with any rule or regulation adopted by the Department of the California Highway Patrol pursuant to Section 34501, 34501.5, 34508, or 34513 regarding any of the following:

(a) Hours of service of drivers.

(b) Hazardous material transportation.

(c) Schoolbus constructions, design, color, equipment, maintenance, or operation.

(d) Youth bus equipment, maintenance, or operation.

(e) Tour bus equipment, maintenance, or operation.

(f) Equipment, maintenance, or operation of any vehicle described in subdivision (a), (b), (d), (e), (f), or (g) of Section 34500.

(g) Equipment, maintenance, or operation of any school pupil activity bus.

SEC. 8. Section 34506 of the Vehicle Code is amended to read:

34506. It is a misdemeanor to fail to comply with any rule or regulation adopted by the Department of the California Highway Patrol pursuant to Section 34501, 34501.5, 34501.18, 34508, or 34513 regarding any of the following:

(a) Hours of service of drivers.

(b) Hazardous material transportation.

(c) Schoolbus constructions, design, color, equipment, maintenance, or operation.

(d) Youth bus equipment, maintenance, or operation.

(e) Tour bus equipment, maintenance, or operation.

(f) Equipment, maintenance, or operation of any vehicle described in subdivision (a), (b), (d), (e), (f), or (g) of Section 34500.

(g) Equipment, maintenance, or operation of any school pupil activity bus.

SEC. 9. Section 40000.21 of the Vehicle Code is amended to read:

40000.21. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Subdivision (a) of Section 34506, relating to the hours of service of drivers.

(b) Subdivision (b) of Section 34506, relating to the transportation of hazardous materials.

(c) Subdivision (c) of Section 34506, relating to schoolbuses.

(d) Subdivision (d) of Section 34506, relating to youth buses.

(e) Section 34505 or subdivision (e) of Section 34506, relating to tour buses.

(f) Section 34505.5 or subdivision (f) of Section 34506, relating to vehicles described in subdivisions (a), (b), (d), (e), (f), and (g) of Section 34500.

(g) Subdivision (a) of Section 34501.3, relating to unlawful scheduling of runs by motor carriers.

(h) Subdivision (g) of Section 34506, relating to school pupil activity buses.

SEC. 10. Section 40000.70 is added to the Vehicle Code, to read:

40000.70. A violation of Section 23112.5, relating to notification of an on-highway hazardous material or hazardous waste spill, is a misdemeanor and not an infraction.

SEC. 11. Section 8 of this bill incorporates amendments to Section 34506 of the Vehicle Code proposed by both this bill and SB 2462. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1991, (2) each bill amends Section 34506 of the Vehicle Code, and (3) this bill is enacted after SB 2462, in which case Section 7 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 430

An act to amend Sections 1189.109 and 24165.3 of the Health and Safety Code, to amend Sections 16909.1, 16918, 16932, 16933, 16934, 16938, 16939, 16945, 16946, 16947, 16948, and 16970 of, to amend and renumber Section 16931.1 of, and to add Section 16934.7 to, the Welfare and Institutions Code, and to amend Section 55 of Chapter 51 of the Statutes of 1990, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1990 Filed with Secretary of State July 26, 1990]

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

SECTION 1. Section 1189.109 of the Health and Safety Code is amended to read:

1189.109. (a) As a condition of receiving funds under this article, a clinic shall, insofar as the clinic directly provides those services for other patients provide, or arrange, medically necessary followup treatment, including prescription drugs, for any condition detected as part of a child health and disability prevention screen for any child eligible for services under Section 24165.3 if the child was screened by the clinic or upon referral by a child health and disability prevention program provider, unless the child is eligible to receive care with no share of cost under the Medi-Cal program, is covered under another publicly funded program, or the services are payable under private insurance coverage.

(b) (1) Beginning with the 1990–91 fiscal year, insofar as a clinic provides dental treatment services, the clinic's responsibility to provide those dental services to any child in any fiscal year shall not exceed one thousand dollars ($1,000), in addition to any reimbursement received for dental treatment services, including, but not limited to, reimbursements received under this part.

(2) The state department shall reimburse the cost of dental services provided after June 30, 1990, which exceed one thousand dollars ($1,000) from the primary care clinic risk pool established pursuant to subdivision (a) of Section 1189.110.

(c) (1) If any child requires treatment the clinic does not provide, the clinic shall arrange for the treatment to be provided, and the name of that provider shall be noted in the patient's medical record.

(2) The clinic shall contact the provider or the patient or his or her guardian, or both, within 30 days after the arrangement for the provision of treatment is made, and shall determine if the provider has provided appropriate care, and shall note the results in the patient's medical record.

(3) If the clinic is not able to determine, within 30 days after the arrangement for the provision of treatment is made, whether the

needed treatment was provided, the clinic shall provide written notice to the county child health and disability prevention program director.

(d) (1) For the 1990–91 fiscal year, the state department may establish a reimbursement program for referral case management services required pursuant to subdivision (c), provided to a child pursuant to subdivision (a).

(2) The state department may utilize funds appropriated for the purposes of this part for reimbursements under paragraph (1).

(3) The state department shall evaluate the effectiveness of the referral case management program, including the extent to which children actually receive appropriate treatment for conditions detected as part of the Child Health and Disability Prevention Program examination.

(e) From funds appropriated for the 1989–90 fiscal year, not more than ten million dollars ($10,000,000) may be utilized by the department for grants to clinics for modernization of clinic facilities and for expansion of primary care capacity in order to provide adequate access to clinic services.

SEC. 2. Section 24165.3 of the Health and Safety Code is amended to read:

24165.3. The State Department of Health Services shall expand the Child Health Disability Prevention (CHDP) Program contained in Article 3.4 (commencing with Section 320) of Chapter 2 of Division 1 as follows:

(a) Any child between birth and 90 days after entrance into first grade, all persons under 21 years of age who are eligible for the California Medical Assistance Program, and any person under 19 years of age whose family income is not more than 200 percent of the federal poverty level shall be eligible for services under the program in the county of which they are a resident. The department shall adopt rules and regulations specifying which age groups shall be given certain types of screening tests and recommendations for referral.

(b) The first source of referral under the program shall be the child's usual source of health care. If referral is required and no regular source of health care can be identified, the facility or provider providing health screening and evaluation services shall provide a list of three qualified sources of care, without prejudice for or against any specific source.

(c) The department shall issue protocols for an antitobacco education component of the CHDP medical examination. The protocols shall include the following: dissuading children from beginning to smoke, encouraging smoking cessation, and providing information on the health effects of tobacco use on the user, children, and nonsmokers. The protocols shall also include a focus on health promotion, disease prevention, and risk reduction, utilizing a "wellness" perspective that encourages self-esteem and positive decisionmaking techniques, and referral to an appropriate

community smoking cessation program.

(d) Notwithstanding any other provision of law, the department shall ensure that a portion of the funds in the Child Health Disability Prevention Program budget is used to facilitate the integration of the medical and dental components of all aspects of that program.

SEC. 3. Section 16909.1 of the Welfare and Institutions Code is amended to read:

16909.1. (a) Except as provided in subdivision (b), county adminstrative costs associated with the administration of each special revenue fund, trust fund, account, or subaccount required by Section 16909 shall be reimbursed from the specific fund, account, or subaccount.

(b) Funds allocated pursuant to paragraph (1) of subdivision (b) of Section 16946 shall not be reduced or utilized to offset the costs of administering the hospital services account.

SEC. 4. Section 16918 of the Welfare and Institutions Code is amended to read:

16918. (a) Counties shall report information on indigent health care program demographic, expenditure, and utilization data, in a form which will provide a count of persons using services funded under this part, to the department, on a quarterly basis.

(b) Data required by subdivision (a) shall include all of the following information:

(1) For the Hospital Services Account, the Physician Services Account, and the Other County Health Services Account in the trust fund established pursuant to Section 16909, the period commencing July 1, 1989, to June 30, 1991, inclusive, the data shall include all of the following:

(A) Date of birth.

(B) Sex.

(C) Residence Zip Code.

(D) Child Health and Disability Prevention Program followup.

(E) Other potential third-party payer source.

(F) Amount billed to the county.

(2) For the Physician Services Account and the Other County Health Services Account established pursuant to Section 16909, the following demographic data shall be reported on a minimum of 5 percent of patients eligible under this part, for the period commencing April 1, 1990, to June 30, 1991; for the Hospital Services Account in the fund, for the period commencing April 1, 1990, to June 30, 1990, the following demographic data shall be reported on a minimum of 5 percent of patients eligible under this part; for the period commencing July 1, 1990, to June 30, 1991, the level of data reported shall be on a per hospital basis as determined by the department:

(A) Ethnicity.

(B) Family size.

(C) Family gross monthly income.

(D) Family principal income source.

(3) For the Hospital Services Account, the data shall include all of the following:

(A) Date of service or inpatient admission.

(B) Type of service.

(C) Number of inpatient days; and the number of outpatient and emergency room visits.

(D) Diagnosis (inpatient only).

(4) For the Physician Services Account in the fund, the data shall include all of the following:

(A) Date of service.

(B) Type of service.

(C) Service setting.

(D) Physician specialty.

(5) For the Other County Health Services Account during the period commencing July 1, 1989, to June 30, 1991, inclusive, the data shall include all of the following:

(A) Date of service or inpatient admission.

(B) Type of service.

(C) Number of units.

(D) Type of units.

(c) Physicians shall provide the data specified in paragraph (2) of subdivision (b), with the following exceptions:

(1) Physicians shall provide emergency services data to the extent the information is available from the hospital.

(2) Physicians shall provide office visit data under subdivision (b) on not less than 5 percent of patients for whom payment is received pursuant to Article 3.5 (commencing with Section 16951) of Chapter 5.

SEC. 5. Section 16931.1 of the Welfare and Institutions Code is amended and renumbered to read:

16933.1. Any physician who receives funds pursuant to subdivision (c) of Section 16933 shall comply with the requirements of subdivision (d) of Section 16955.

SEC. 6. Section 16932 of the Welfare and Institutions Code is amended to read:

16932. The department shall allocate money derived from the Hospital Services Account in the fund to each CMSP county in the following manner:

(a) The combined total of hospital uncompensated care costs for all county and noncounty hospitals in each CMSP county shall be calculated by using the definitions, procedures, and data elements specified in Chapter 3 (commencing with Section 16920).

(b) (1) The office shall determine each county's share by using the 1988 calendar year data, as adjusted by the office, existing on the statewide file on September 1, 1989.

(2) The office shall determine each county's share based on that county's total hospital uncompensated care costs, divided by the total hospital uncompensated care costs for all CMSP counties, and by multiplying that product by the amount appropriated from the

Hospital Services Account in the fund for purposes of this chapter.

(3) The amount calculated pursuant to paragraph (2) shall be each county's allocation from the total amount available for allocation to the counties under this chapter.

(c) The amounts calculated pursuant to paragraph (3) of subdivision (b) shall be divided and allocated in accordance with Section 16946. Sections 16946, 16947, 16948, and 16949 shall be applicable to counties and hospitals receiving these funds.

SEC. 7. Section 16933 of the Welfare and Institutions Code is amended to read:

16933. (a) The department shall distribute those moneys appropriated from the Physician Services Account and the Unallocated Account in the fund to CMSP counties on the basis of the percentages obtained by dividing each CMSP county's population by the total population of all CMSP counties, as reported in the most recent annual Department of Finance Research Unit report E-1.

(b) Each county shall use moneys allocated from the Unallocated Account in the fund pursuant to, and for the purposes specified in, Article 4 (commencing with Section 16960) of Chapter 5, and to expand emergency medical transportation services.

(c) Counties shall use moneys allocated from the Physician Services Account in the fund the following ways to provide medically necessary emergency, obstetric, or pediatric services, or all of them, to patients who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government:

(1) Establishment and administration of a Physician Services Account in the county emergency medical services fund in accordance with Article 3.5 (commencing with Section 16951) of Chapter 5.

(2) Contracting with the department for the administration of all Physician Services Account moneys specified in this subdivision pursuant to subdivision (c) of Section 16952.

(3) The reimbursement or support of services, either directly or by contract, which are provided by physicians or groups of physicians.

(d) Moneys allocated from the Physician Services Account in the fund shall be used to provide reimbursement for services provided on or after July 1, 1989.

SEC. 8. Section 16934 of the Welfare and Institutions Code is amended to read:

16934. (a) As a condition of receiving funds under this chapter, a county shall provide, or arrange and pay for, medically necessary followup treatment, including necessary followup dental services and prescription drugs, for any condition detected as part of a child health and disability prevention screen for a child eligible for services under Section 24165.3 of the Health and Safety Code, if the child was screened by the county, or upon referral by a child health and disability prevention program provider. This section shall not

apply to any child eligible to receive care with no share of cost under the Medi-Cal program or who is covered by another publicly funded program or for whom these services are covered or will be paid by any other responsible party. A county may require that hospitals which contract with the county pursuant to paragraph (2) of subdivision (b) of Section 16946, physicians who contract with the county pursuant to paragraph (3) of subdivision (c) of Section 16933 or dentists or any provider which contracts with the county pursuant to subdivision (b) of Section 16933 and receives funds appropriated for the purposes of this chapter to participate in complying with this section. A county shall not require that hospitals receiving an allocation pursuant to paragraph (1) of subdivision (b) of Section 16946 or physicians who receive payment from a physician services account established pursuant to paragraph (1) of subdivision (c) of Section 16933 participate in complying with this section.

(b) Dental services provided pursuant to this section shall be at least equal in scope and frequency to dental services available to Medi-Cal eligible children of the same age.

SEC. 9. Section 16934.7 is added to the Welfare and Institutions Code, to read:

16934.7. (a) For the 1990–91 fiscal year and each fiscal year thereafter, each county entering into a contract with the department pursuant to Section 16934.5, in which the department assumed the responsibility of payment for the treatment of children pursuant to Section 16934, shall have the option to contract with the department to administer the distribution and monitoring of funds allocated from the Hospital Services Account in the fund pursuant to subdivision (b) of Section 16946.

(b) Any county which does not elect to contract with the department pursuant to Section 16934.5 for payment for the treatment of children pursuant to Section 16934 may contract with the department to administer that portion of its funds allocated to the county from the Hospital Services Account in the fund pursuant to paragraph (1) of subdivision (b) of Section 16946, but shall not contract with the department to administer that portion of its funds allocated to the county from the Hospital Services Account in the fund pursuant to paragraph (2) of subdivision (b) of Section 16946.

(c) (1) Any county intending to contract with the department pursuant to subdivision (a) or (b) shall submit to the department a notice of intent to contract by resolution adopted by the board of supervisors or authorized persons within 45 days after the effective date of the act adding this section.

(2) For each fiscal year following the submission of the notice of intent to contract pursuant to paragraph (1), the county board of supervisors shall submit a notice adopted by the board of supervisors to the department, in accordance with procedures established by the department, no later than April 1 of the fiscal year preceding the fiscal year for which the intended agreement will be in effect.

(d) (1) Each county contracting with the department pursuant

to subdivision (a) or (b) shall agree that the department shall retain that portion of the county's allocation pursuant to subdivision (b) or paragraph (1) of subdivision (b) of Section 16946, whichever is applicable.

(2) The department may use up to 10 percent of the amount of funds retained pursuant to paragraph (1) for purposes of administration of this section.

(e) As a condition of any contract entered into pursuant to this section, the department shall act on behalf of the county and shall assume all program responsibilities for distribution and monitoring funds pursuant to subdivision (b) or paragraph (1) of subdivision (b) of Section 16946, whichever is applicable. The department may exercise discretion in the administration of funds pursuant to paragraph (2) of subdivision (b) of Section 16946 and shall also implement subdivisions (d), (e), (f), and (g) of Section 16946 with regard to those funds.

SEC. 10. Section 16938 of the Welfare and Institutions Code is amended to read:

16938. (a) Each county shall submit a report of estimated and actual expenditures of moneys as part of the submissions required according to the procedures established by the department pursuant to Section 16706.

(b) The department shall review the reports submitted pursuant to subdivision (a) and recoup unspent moneys and expenditures which are not on compliance with this chapter or Section 16706.

(c) The department shall withhold, in whole or in part, payment of rural health services funds from a CMSP county until the county submits the reports required by this section to the department in the form, and according to time schedules, established by the department.

SEC. 11. Section 16939 of the Welfare and Institutions Code is amended to read:

16939. As a condition of receiving funds pursuant to this chapter, each county shall meet the requirements of Articles 6 (commencing with Section 16980), 7 (commencing with Section 16990) and 10 (commencing with Section 16995) of Chapter 5.

SEC. 12. Section 16945 of the Welfare and Institutions Code is amended to read:

16945. (a) The department shall annually verify and transmit to each MISP county and each CMSP county the figures specified in subdivision (c), using data supplied by the office.

(b) (1) For purposes specified in subdivision (c), the office shall use data from the quarterly reports required by Section 443.32 of the Health and Safety Code.

(2) For the 1989–90 fiscal year computations, the office shall use the 1988 calendar year data, as adjusted by the office, existing on the statewide file on September 1, 1989.

(3) For 1990–91 fiscal year computations, the office shall use the 1989 calendar year data, as adjusted by the office, existing on the

statewide file on June 15, 1990.

(4) The definitions, procedures, and data elements specified in Chapter 3 (commencing with Section 16920) shall be used in all computations required in subdivision (c).

(c) The office shall compute the following data on uncompensated care costs reported by hospitals located within each MISP county and each CMSP county:

(1) The sum of uncompensated care costs for all hospitals.

(2) The sum of uncompensated care costs for all noncounty hospitals.

(3) The sum of uncompensated care costs for all county hospitals.

(4) The uncompensated care costs of each hospital within the county.

(5) The percentage derived from dividing the result of paragraph (2) by the result of paragraph (1).

(6) The percentage derived from dividing the result of paragraph (3) by the result of paragraph (1).

(7) The percentage for each individual hospital derived from dividing each noncounty hospital's uncompensated care cost in paragraph (4) by the amount in paragraph (2).

(d) The office shall transmit to the department the data specified in subdivision (c) within 30 days of the dates specified in paragraph (2) of subdivision (b) and paragraph (3) of subdivision (b) of this section.

SEC. 13. Section 16946 of the Welfare and Institutions Code is amended to read:

16946. (a) The Hospital Services Account portion of each county's allocation pursuant to Sections 16932 and 16941 shall be divided into two amounts by:

(1) Multiplying the amount of the Hospital Services Account funding portion by the percentage specified in paragraph (5) of subdivision (c) of Section 16945.

(2) Multiplying the amount of the Hospital Services Account funding portion by the percentage specified in paragraph (6) of subdivision (c) of Section 16945.

(b) The amount of each county's Hospital Services Account funding portion calculated in paragraph (1) of subdivision (a) shall be used for payment or support of services provided on or after July 1, 1989, by noncounty hospitals. This amount for each county shall be further divided into two equal parts, as follows:

(1) (A) The first part shall be allocated to each noncounty hospital within a county in amounts determined by multiplying the percentages specified in paragraph (7) of subdivision (c) of Section 16945 by the amount of the first part, and may be used for payment or support of services provided by noncounty hospitals to any eligible patient treated at any time during the 1989–90 fiscal year.

(B) Funds distributed during fiscal years subsequent to the 1989–90 fiscal year shall be accounted for on a quarterly basis.

(C) For the 1989–90 fiscal year, noncounty hospitals shall provide

the demographic data specified in paragraph (2) of subdivision (b) of Section 16918 on a minimum of 5 percent of patients for whom services are paid for in whole or in part by funds allocated pursuant to this paragraph, in addition to any other requirements specified in Section 16918.

(D) For the 1990–91 fiscal year, noncounty hospitals shall provide data pursuant to the reporting requirements specified in Section 16918 and shall provide posted and individual notices pursuant to Section 16718 for the duration of any quarter during which funds allocated pursuant to this paragraph are used.

(E) Amounts calculated pursuant to this paragraph shall not be reduced or utilized to offset the costs of administering the Hospital Services Account.

(2) The remaining 50 percent of the funds from the Hospital Services Account shall be distributed by the county to hospitals, including those under contract with the county, to maintain access to emergency care and to purchase other necessary hospital services. Prior to distributing funds to hospitals, each county shall consult with the hospitals and consider the historic and projected patterns of care provided by hospitals, by geographic catchment areas within both urban and nonurban areas, unique costs associated with treating disproportionate numbers of severely ill indigent patients, and disproportionate losses sustained by hospitals in the provision of care.

(c) The amount of each county's Hospital Services Account funding portion calculated in paragraph (2) of subdivision (a) may be used for the payment or support of services provided on or after July 1, 1989, in county hospitals or noncounty hospitals as determined by each county.

(d) As a condition of receiving funds under this section and Section 16932, each county shall require each county and noncounty hospital to do all of the following:

(1) Maintain the same number and classification of emergency room permits and trauma facility designations as existed on October 2, 1989.

(2) Provide data and reports on the use and expenditure of all funds received. This information shall be in a form and according to procedures specified by the county and the department.

(3) Assure that funds received pursuant to this section are used only for services for persons who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(e) (1) If a county or noncounty hospital does not comply with this section, the county shall recover funds received by the hospital as follows:

(A) For any violation of paragraph (1) of subdivision (d), the county shall recover that portion of the funds received which equal the ratio of the number of months not in compliance to 12 months.

(B) For any violation of paragraph (2) of subdivision (d), the

county shall recover all funds received.

(C) For any violation of paragraph (3) of subdivision (d), the county shall recover the difference between the amount received and the amount for which the hospital can document that the funds were used only for services for persons who cannot afford to pay for those services and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(2) The county may deny further payments required by this section until the hospital demonstrates compliance.

(f) Funds withheld or recovered pursuant to this section may be reallocated and distributed by the county pursuant to paragraph (2) of subdivision (b).

(g) (1) Except as provided in paragraph (2), funds allocated pursuant to paragraph (1) or (2) of subdivision (b) which are not expended because a hospital does not participate shall be redistributed pursuant to paragraph (2) of subdivision (b).

(2) If no noncounty hospitals remain to participate, the county may distribute those unexpended funds pursuant to subdivision (c).

SEC. 14. Section 16947 of the Welfare and Institutions Code is amended to read:

16947. (a) Any hospital which receives funds pursuant to this chapter or Chapter 4 (commencing with Section 16930) shall, within 90 days of the receipt of those funds, cease all current and waive all future collection efforts, by itself and by its agents, to obtain any payment from the patient with respect to whom the services funded under this chapter were rendered.

(b) This section shall not be interpreted or applied so as to prevent the hospital from doing either of the following:

(1) Seeking demographic, financial, or other information necessary for the patient to qualify for Medi-Cal program benefits under Chapter 14 (commencing with Section 14000) of Part 3 or for the reimbursement for services through any other third-party payer.

(2) Seeking payment from a patient or responsible third-party payer or arranging a repayment schedule for the cost of services rendered.

(c) If a hospital receives payment from a patient or responsible third-party payer, the hospital shall notify the county and reimburse the county in an amount equal to the amount collected from the patient or third-party payer, but not more than the amount of the payment received from the county for the patient's care.

SEC. 15. Section 16948 of the Welfare and Institutions Code is amended to read:

16948. (a) (1) Within 10 working days of enactment of this section, each county which has received an allocation pursuant to Section 16941 and Section 16932 shall distribute to each noncounty hospital that hospital's accumulated proportionate share of the funds pursuant to paragraph (1) of subdivision (b) of Section 16946 for the 1989–90 fiscal year. This requirement shall not supersede any

contractual agreement between a county and a noncounty hospital regarding the distribution of these funds.

(2) Commencing with the first day of the month following the effective date of this section for the remainder of the 1989–90 fiscal year, and for the 1990–91 fiscal year, within 10 working days of receipt of funds allocated pursuant to Section 16941 and Section 16932, the county shall distribute to each noncounty hospital that hospital's share of the funds pursuant to paragraph (1) of subdivision (b) of Section 16946.

(b) Each noncounty hospital which receives funds pursuant to paragraph (1) of subdivision (a) shall report to the county, within 90 days after receipt of the funds, information on patients for whom the distributions were used, pursuant to Section 16918.

(c) Each noncounty hospital which receives funds pursuant to paragraph (2) of subdivision (a) shall report to the county within 30 days after the receipt of the funds, information on patients for whom the distributions were used, pursuant to Section 16918.

(d) The county shall suspend distribution of funds to any noncounty hospital which fails to provide the information required pursuant to subdivisions (b) and (c) until the hospital provides the required information.

SEC. 16. Section 16970 of the Welfare and Institutions Code is amended to read:

16970. (a) As a condition of receiving funds under this chapter, a county shall provide, or arrange and pay for, medically necessary followup treatment, including necessary followup dental treatment and prescription drugs, for any condition detected as part of a child health and disability prevention screen for any child eligible for services under Section 24165.3 of the Health and Safety Code if the child was screened by the county or upon referral by a child health and disability prevention program provider, unless the child is eligible to receive care with no share of cost under the Medi-Cal program or is covered under another publicly funded program, or the services are payable under private insurance coverage.

(b) A county may require that hospitals, physicians, dentists, and other providers receiving funds appropriated pursuant to this part participate in complying with this section, provided that:

(1) Hospitals which receive an allocation pursuant to paragraph (1) of subdivision (b) of Section 16946 and physicians who receive payment from the Physician Services Account of the emergency services fund established pursuant Article 3.5 (commencing with Section 16951) shall be not be required to participate in complying with subdivision (a) as a condition of receiving those allocations or payments.

(2) Only providers which contract with the county and receive funds disbursed from the Unallocated Account pursuant to Article 4 (commencing with Section 16960) or from the discretionary portion of the Physician Services Account pursuant to subdivision (b) of Section 16950, or from the discretionary portion of the Hospital

Services Account pursuant to paragraph (2) of subdivision (b) of Section 16946 may be required to participate in complying with subdivision (a).

(c) Dental services provided pursuant to this section shall be at least equal in scope and frequency to dental services available to Medi-Cal eligible children of the same age.

SEC. 17. Section 55 of Chapter 51 of the Statutes of 1990 is amended to read:

Sec. 55. (a) Except as provided in Sections 16970 and 16934 of the Welfare and Institutions Code, as modified by Sections 16934.2 and 16934.5 of the Welfare and Institutions Code, any obligation of a county to provide health care services to any person or persons pursuant to Chapter 1331 of the Statutes of 1989 shall be limited to the funds appropriated by Chapter 1331 of the Statutes of 1989, as amended.

(b) A county's obligation to provide or pay for health care services pursuant to Chapter 1331 of the Statutes of 1989 and this act does not mandate a level of service or payment, modify the county's obligation 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 with available resources.

(c) The flexibility of any county, although not limited by Chapter 1331 of the Statutes of 1989 or by this act, shall not diminish a county's responsibilities under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to timely establish a means for the continuation of existing county practices in the provision of health care services in the context of funding allocated from the Hospital Services Account in the Cigarette and Tobacco Products Surtax Fund, it is necessary that this act take effect immediately.

CHAPTER 431

An act to amend Sections 1808.22, 1808.46, 13353, 13353.2, 13353.3, 13353.4, 13353.6, 13353.7, 13551, 13557, 13558, 13559, 14100, 14905, 23157, 23158.2, 23158.5, 23206.5, and 23210 of, and to add Section 23199 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 1808.22 of the Vehicle Code is amended to read:

1808.22. (a) Section 1808.21 does not apply to a financial institution licensed by the state or federal government to do business in the State of California which states under penalty of perjury that it has obtained a written waiver of Section 1808.21 signed by the individual whose address is requested, or to providing the address of any person who has entered into an agreement held by that institution prior to July 1, 1990, so long as that agreement remains in effect.

(b) Section 1808.21 does not apply to an insurance company licensed to do business in California when the company, under penalty of perjury, requests the information for the purpose of obtaining the address of another motorist or vehicle owner involved in an accident with their insured, or requests the information on an individual who has signed a written waiver of Section 1808.21 or the individuals insured under a policy if a named insured of that policy has signed a written waiver.

(c) Section 1808.21 does not apply to an attorney when the attorney states, under penalty of perjury, that the motor vehicle or motorcycle registered owner or driver residential address information is necessary in order to represent his or her client in a criminal or civil action which directly involves the use of the motor vehicle that is pending, is to be filed, or is being investigated. Information requested pursuant to this subdivision is subject to all of the following:

(1) The attorney shall state that the criminal or civil action that is pending, is to be filed, or is being investigated relates directly to the use of that motor vehicle or motorcycle.

(2) The case number, if any, or the names of expected parties to the extent they are known to the attorney requesting the information, shall be listed on the request.

(3) A residence address obtained from the department shall not be used for any purpose other than in furtherance of the case cited or action to be filed or which is being investigated.

(4) If no action is filed within a reasonable time, the residence address information shall be destroyed.

(5) No attorney shall request residence address information pursuant to this subdivision in order to sell the information to any person.

(6) Within 10 days of receipt of a request, the department shall notify every individual whose residence address has been requested pursuant to this subdivision.

(d) A knowing violation of paragraph (1), (2), (3), (4), or (5) of

subdivision (c) is a misdemeanor. A knowing violation of paragraph (1), (2), (3), (4), or (5) of subdivision (c) in furtherance of another crime is subject to the same penalties as that other crime.

SEC. 1.5. Section 1808.46 of the Vehicle Code is amended to read:

1808.46. (a) (1) Any person who obtains residence address information from the department pursuant to subdivision (c) of Section 1808.22 using false representations, or who distributes the information to any person or uses the information for any purpose not authorized by that subdivision (c), and (2) any person holding a requester code or agent who directly or indirectly obtains information from the department files using false representations or distributes restricted or confidential information to any person or uses the information for a reason not authorized or specified in a requester code application, is liable to the department for civil penalties up to one hundred thousand dollars ($100,000) and a person described in (2) shall have its requester code privileges suspended or revoked for a period of up to five years.

(b) The regulatory agencies having jurisdiction over any licensed person receiving information pursuant to Section 1808.21, 1808.22, or 1810.2 shall implement procedures to review the procedures of any licensee which receives information to ensure compliance with the limitations on the use of information as part of the agency's regular oversight of the licensees. The agency shall report noncompliance to the department.

SEC. 1.7. Section 13353 of the Vehicle Code, as amended by Section 3 of Chapter 1460 of the Statutes of 1989, is amended to read:

13353. (a) If any person refuses the officer's request to submit to, or fails to complete, a chemical test or tests pursuant to Section 23157, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153 and that the person had refused to submit to, or did not complete, the test or tests after being requested by the officer, the department shall (1) suspend the person's privilege to operate a motor vehicle for a period of one year, (2) revoke the person's privilege to operate a motor vehicle for a period of two years if the refusal occurred within seven years of (A) a separate violation of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, which resulted in a conviction, or (B) a suspension or revocation of the person's privilege to operate a motor vehicle pursuant to this section or Section 13353.2 for an offense which occurred on a separate occasion, or (3) revoke the person's privilege to operate a motor vehicle for a period of three years if the refusal occurred within seven years of (A) two or more separate violations of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 of paragraph (3) of subdivision (c) of Section 192 of the Penal Code, which resulted in convictions, (B) two or more suspensions or revocations of the person's privilege to operate

a motor vehicle pursuant to this section or Section 13353.2 for offenses which occurred on separate occasions, or (C) any combination of two or more of those convictions or administrative suspensions or revocations. The officer's sworn statement shall be submitted pursuant to Section 23158.2 on a form furnished or approved by the department. The suspension or revocation shall not become effective until 45 days after the giving of written notice thereof, or until the end of any stay of the suspension or revocation, as provided for in Section 13558.

(b) The notice of the order of suspension or revocation under this section shall be served on the person by a peace officer pursuant to Section 23157. The notice of the order of suspension or revocation shall be on a form provided by the department. If the notice of the order of suspension or revocation has not been served by the peace officer pursuant to Section 23157, the department shall immediately notify the person in writing of the action taken.

(c) Upon receipt of the officer's sworn statement, the department shall review the record. For purposes of this section, the scope of the administrative review shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, whether the person was placed under arrest, whether the person refused to submit to, or did not complete, the test or tests after being requested by a peace officer, and whether, except for the persons described in subdivision (a) of Section 23157 who are incapable of refusing, the person had been told that his or her driving privilege would be suspended or revoked if he or she refused to submit to, or did not complete, the test or tests.

(d) The person may request an administrative hearing pursuant to Section 13558. Except as provided in subdivision (e) of Section 13558, the request for an administrative hearing does not stay the order of suspension or revocation.

(e) This section shall remain in effect only until January 1, 1992, and as of that date is repealed.

SEC. 2. Section 13353 of the Vehicle Code, as added by Section 4 of Chapter 1460 of the Statutes of 1989, is amended to read:

13353. (a) If any person refuses the officer's request to submit to, or fails to complete, a chemical test or tests pursuant to Section 23157, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153 and that the person had refused to submit to, or did not complete, the test or tests after being requested by the officer, the department shall (1) suspend the person's privilege to operate a motor vehicle for a period of one year, (2) revoke the person's privilege to operate a motor vehicle for a period of two years if the refusal occurred within seven years of (A) a separate violation of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code,

which resulted in a conviction, or (B) a suspension or revocation of the person's privilege to operate a motor vehicle pursuant to this section or Section 13353.2 for an offense which occurred on a separate occasion, or (3) revoke the person's privilege to operate a motor vehicle for a period of three years if the refusal occurred within seven years of (A) two or more separate violations of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, or any combination thereof, which resulted in convictions, (B) two or more suspensions or revocations of the person's privilege to operate a motor vehicle pursuant to this section or Section 13353.2 for offenses which occurred on separate occasions, or (C) any combination of two or more of those convictions or administrative suspensions or revocations. The officer's sworn statement shall be submitted pursuant to Section 23158.2 on a form furnished or approved by the department. The suspension or revocation shall not become effective until 45 days after the giving of written notice thereof, or until the end of any stay of the suspension or revocation, as provided for in Section 13558.

(b) The notice of the order of suspension or revocation under this section shall be served on the person by a peace officer pursuant to Section 23157. The notice of the order of suspension or revocation shall be on a form provided by the department. If the notice of the order of suspension or revocation has not been served by the peace officer pursuant to Section 23157, the department shall immediately notify the person in writing of the action taken.

(c) Upon receipt of the officer's sworn statement, the department shall review the record. For purposes of this section, the scope of the administrative review shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, whether the person was placed under arrest, whether the person refused to submit to, or did not complete, the test or tests after being requested by a peace officer, and whether, except for the persons described in subdivision (a) of Section 23157 who are incapable of refusing, the person had been told that his or her driving privilege would be suspended or revoked if he or she refused to submit to, or did not complete, the test or tests.

(d) The person may request an administrative hearing pursuant to Section 13558. Except as provided in subdivision (e) of Section 13558, the request for an administrative hearing does not stay the order of suspension or revocation.

(e) If any person who was driving a commercial motor vehicle, as defined in Section 15210, refuses the officer's request to submit to, or fails to complete, a chemical test or tests pursuant to Section 23157, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a commercial motor vehicle, as defined in Section 15210, in violation of Section 23152 or 23153 and that the person had refused to submit

to, or did not complete, the test or tests after being requested by the officer, the department shall suspend or revoke the person's privilege to operate a commercial motor vehicle for the period specified in Section 13352 for conviction of a violation of Section 23152, including any applicable enhancement for convictions of other separate offenses, as specified in that section. The officer's sworn statement shall be submitted on a form furnished or approved by the department. Subdivisions (b), (c), and (d) apply to actions taken under this subdivision.

(f) This section shall become operative on January 1, 1992, and shall remain operative until the director determines that federal regulations adopted pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in Section 383.51 or 391.15 of Title 49 of the Code of Federal Regulations do not require the state to suspend a person's commercial driver's license if that person refuses to submit to testing of his or her blood for the concentration of alcohol therein.

(g) The director shall submit a notice of the determination under subdivision (f) to the Secretary of State, and this section shall be repealed upon the receipt of that notice by the Secretary of State.

SEC. 3. Section 13353 of the Vehicle Code, as added by Section 5 of Chapter 1460 of the Statutes of 1989, is amended to read:

13353. (a) If any person refuses the officer's request to submit to, or fails to complete, a chemical test or tests pursuant to Section 23157, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153 and that the person had refused to submit to, or did not complete, the test or tests after being requested by the officer, the department shall (1) suspend the person's privilege to operate a motor vehicle for a period of one year, (2) revoke the person's privilege to operate a motor vehicle for a period of two years if the refusal occurred within seven years of a separate violation of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, which resulted in a conviction, or if the person's privilege to operate a motor vehicle has been previously suspended or revoked pursuant to this section or Section 13353.2 for an offense which occurred on a separate occasion, or (3) revoke the person's privilege to operate a motor vehicle for a period of three years if the refusal occurred within seven years of (A) two or more separate violations of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, or any combination thereof, which resulted in convictions, (B) two or more previous suspensions or revocations of the person's privilege to operate a motor vehicle pursuant to this section or Section 13353.2 for offenses which occurred on separate occasions, or (C) any combination of two or more of those convictions or administrative suspensions or

revocations. The officer's sworn statement shall be submitted pursuant to Section 23158.2 on a form furnished or approved by the department. The suspension or revocation shall not become effective until 45 days after the giving of written notice thereof, or until the end of any stay of the suspension or revocation, as provided for in Section 13558.

(b) The notice of the order of suspension or revocation under this section shall be served on the person by a peace officer pursuant to Section 23157. The notice of the order of suspension or revocation shall be on a form provided by the department. If the notice of the order of suspension or revocation has not been served by the peace officer pursuant to Section 23157, the department shall immediately notify the person in writing of the action taken.

(c) Upon receipt of the officer's sworn statement, the department shall review the record. For purposes of this section, the scope of the administrative review shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, whether the person was placed under arrest, whether the person refused to submit to, or did not complete, the test or tests after being requested by a peace officer, and whether, except for the persons described in subdivision (a) of Section 23157 who are incapable of refusing, the person had been told that his or her driving privilege would be suspended or revoked if he or she refused to submit to, or did not complete, the test or tests.

(d) The person may request an administrative hearing pursuant to Section 13558. Except as provided in subdivision (e) of Section 13558, the request for an administrative hearing does not stay the order of suspension.

(e) This section shall become operative only upon the receipt by the Secretary of State of the notice specified in subdivision (g) of Section 13353, as added by Section 4 of Chapter 1460 of the Statutes of 1989.

SEC. 4. Section 13353.2 of the Vehicle Code is amended to read:

13353.2. (a) The department shall immediately suspend the privilege of any person to operate a motor vehicle if the person was driving or was in actual physical control of a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood.

(b) The notice of the order of suspension under this section shall be served on the person by a peace officer pursuant to Section 23158.5. The notice of the order of suspension shall be on a form provided by the department. If the notice of the order of suspension has not been served upon the person by the peace officer pursuant to Section 23158.5, upon the receipt of the report of a peace officer submitted pursuant to Section 23158.2, the department shall mail written notice of the order of the suspension to the person at the last known address shown on the department's records and, if the address of the person provided by the peace officer's report differs

from the address of record, to that address.

(c) The notice of the order of suspension shall clearly specify the reason and statutory grounds for the suspension, the effective date of the suspension, the right of the person to request an administrative hearing, the procedure for requesting an administrative hearing, and the date by which a request for an administrative hearing shall be made in order to receive a determination prior to the effective date of the suspension.

(d) The department shall make a determination of the facts in subdivision (a) on the basis of the report of a peace officer submitted pursuant to Section 23158.2. The determination of the facts, after administrative review pursuant to Section 13557, by the department is final, unless an administrative hearing is held pursuant to Section 13558 and any judicial review of the administrative determination after the hearing pursuant to Section 13559 is final.

(e) The determination of the facts in subdivision (a) is a civil matter which is independent of the determination of the person's guilt or innocence, shall have no collateral estoppel effect on a subsequent criminal prosecution, and shall not preclude the litigation of the same or similar facts in the criminal proceeding. If a person is acquitted of criminal charges relating to a determination of facts under subdivision (a), the department shall immediately reinstate the person's privilege to operate a motor vehicle if the department has suspended it administratively pursuant to subdivision (a), and the department shall return or reissue for the remaining term any driver's license which has been taken from the person pursuant to Section 23158.5 or otherwise. No fee shall be imposed pursuant to Section 14905 for the return or reissuing of a driver's license pursuant to this subdivision. The disposition of a suspension action under this section does not affect any action to suspend or revoke the person's privilege to operate a motor vehicle under any other provision of this code, including, but not limited to, Section 13352 or 13353, or Chapter 3 (commencing with Section 13800).

SEC. 5. Section 13353.3 of the Vehicle Code is amended to read:

13353.3. (a) An order of suspension of a person's privilege to operate a motor vehicle pursuant to Section 13353.2 shall become effective 45 days after the person is served with the notice pursuant to Section 23158.5 or subdivision (b) of Section 13353.2.

(b) The period of suspension of a person's privilege to operate a motor vehicle under Section 13353.2 is as follows:

(1) Except as provided in Section 13353.6, if the person has not been convicted of a separate violation of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, or the person has not been administratively determined to have refused chemical testing pursuant to Section 13353 or to have been driving with an excessive concentration of alcohol pursuant to Section 13353.2 on a separate occasion, which offense or occurrence

occurred within seven years of the occasion in question, the person's privilege to operate a motor vehicle shall be suspended for four months.

(2) If the person has been convicted of one or more separate violations of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, or the person has been administratively determined to have refused chemical testing pursuant to Section 13353 or to have been driving with an excessive concentration of alcohol pursuant to Section 13353.2 on a separate occasion, which offense or occasion occurred within seven years of the occasion in question, the person's privilege to operate a motor vehicle shall be suspended for one year.

(c) If a person's privilege to operate a motor vehicle is suspended pursuant to Section 13353.2 and the person is convicted of a violation of Section 23152 or 23153, including a violation described in Section 23156, arising out of the same occurrence, both the suspension under Section 13353.2 and the suspension or revocation under Section 13352 shall be imposed, except that, notwithstanding Section 13354, the periods of suspension or revocation shall run concurrently, and the total period of suspension or revocation shall not exceed the longer of the two suspension or revocation periods. This subdivision shall not affect a suspension or revocation pursuant to Section 13353 for refusal to submit to chemical testing or the imposition of consecutive periods of suspension or revocation pursuant to Section 13354 for that refusal.

SEC. 6. Section 13353.4 of the Vehicle Code is amended to read:

13353.4. (a) Except as provided in subdivision (b) of Section 13353.6 or Section 13353.7, the driving privilege shall not be restored, and no restricted or hardship permit to operate a motor vehicle shall be issued, to a person during the suspension or revocation period specified in Section 13353 or 13353.3.

(b) The privilege to operate a motor vehicle shall not be restored after a suspension or revocation pursuant to Section 13352, 13353, or 13353.2 until all applicable reinstatement fees, including the fees prescribed in Section 14905, have been paid and the person gives proof of financial responsibility as defined in Section 16430 to the department.

(c) The privilege to operate a motor vehicle shall not be restored after a suspension or revocation pursuant to Section 13352 until the person gives proof satisfactory to the department of successful completion of a program approved pursuant to Section 23161 if the person is ordered to attend the program pursuant to that section, or successful completion of a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code for any other person whose driving privilege is suspended or revoked pursuant to Section 13352.

SEC. 7. Section 13353.6 of the Vehicle Code is amended to read:

13353.6. (a) If the person's driver's license is a commercial

driver's license, as defined in Section 15210, and if the person has not had a separate violation of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code which resulted in a conviction, and if the person's privilege to operate a motor vehicle has not been previously suspended or revoked pursuant to Section 13353 or 13353.2 for an offense which occurred on a separate occasion, notwithstanding Section 13551, the department shall, upon receiving the officer's sworn statement and the receipt of the person's driver's license and after review pursuant to subdivision (d) of Section 13353.2, suspend the person's privilege to operate a motor vehicle for 30 days, and then reissue the person a commercial driver's license with restrictions, as follows:

(1) The restricted commercial driver's license shall authorize the operation of a motor vehicle only to and from, and in the course and scope of, the person's employment.

(2) The term of the restricted license is 30 days after the date that the order of suspension is effective pursuant to Section 13353.3 until six months after that date.

(b) The person may be issued an unrestricted commercial driver's license after the term of restriction under this section.

(c) This section applies only to the holder of a commercial driver's license who was not operating a commercial vehicle, as defined in Section 15210, at the time of the offense.

SEC. 8. Section 13353.7 of the Vehicle Code is amended to read:

13353.7. (a) Subject to subdivision (c) and except as provided in Section 13353.6 for persons who have commercial driver's licenses, if the person whose driving privilege has been suspended under Section 13353.2 has not been convicted of, or found to have committed, a separate violation of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, and if the person's privilege to operate a motor vehicle has not been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense which occurred on a separate occasion within seven years of the occasion in question and, if the person subsequently enrolls in a program described in subdivision (b) of Section 23161, that person may apply to the department for a restricted driver's license limited to travel to and from the activities required by the program. After receiving proof of enrollment in the program, and if the person has not been arrested subsequent to the offense for which the person's driving privilege has been suspended under Section 13353.2 for a violation of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, and if the person's privilege to operate a motor vehicle has not been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense which occurred on a separate occasion, notwithstanding Section 13551, the department shall, after review

pursuant to Section 13557, suspend the person's privilege to operate a motor vehicle for 30 days and then issue the person a restricted driver's license under the following conditions:

(1) The program shall report any failure to participate in the program to the department and shall certify successful completion of the program to the department.

(2) The person gives proof of financial responsibility as defined in Section 16430.

(3) The restricted driver's license authorizes the operation of a motor vehicle only to and from the activities required under the program.

(4) If any person who has been issued a restricted license under this section fails at any time to participate in the program, the department shall suspend the restricted license immediately. The department shall give notice of the suspension under this paragraph in the same manner as prescribed in subdivision (b) of Section 13353.2 for the period specified in Section 13353.3, which is effective upon receipt by the person.

(5) On or after 60 days after the effective date of the restricted license, and upon notification of successful completion of the program, the department may issue an unrestricted driver's license to the person.

(b) If the court of jurisdiction in a criminal action arising out of the same offense orders the department to suspend or revoke the person's privilege to operate a motor vehicle or does not grant probation after conviction of that offense, notwithstanding subdivision (a), the department shall suspend or revoke the person's privilege pursuant to the order of the court or Section 13352.

(c) If the holder of a commercial driver's license was operating a commercial vehicle, as defined in Section 15210, at the time of the violation which resulted in the suspension of that person's driving privilege under Section 13353.2, the department shall, pursuant to this section, if the person is otherwise eligible, issue the person a class C driver's license restricted in the same manner and subject to the same conditions as specified in subdivision (a).

(d) This section does not apply to a person whose driving privilege has been suspended or revoked pursuant to the order of the court or Section 13353 or 13353.2 for an offense which occurred on a separate occasion, or as a result of a conviction of a separate violation of Section 23103, as specified in Section 23103.5, Section 23152, or Section 23153, which violation occurred within seven years of the offense in question. This subdivision shall be operative only so long as a one-year suspension of the driving privilege for a second or subsequent occurrence or offense, with no restricted or hardship licenses permitted, is required by Section 408 or 410 of Title 23 of the United States Code.

SEC. 9. Section 13551 of the Vehicle Code is amended to read:

13551. (a) Whenever the department revokes or suspends the privilege of any person to operate a motor vehicle, the revocation or

suspension shall apply to all driver's licenses held by that person, and, unless previously surrendered to the court, all of those licenses shall be surrendered to the department, or, pursuant to Section 23157 or 23158.5, to a peace officer on behalf of the department. Whenever the department cancels a driver's license, the license shall be surrendered to the department. All suspended licenses shall be retained by the department. The department shall return the license to the licensee, or may issue the person a new license upon the expiration of the period of suspension or revocation, if the person is otherwise eligible for a driver's license.

(b) The department shall return the license to the licensee, or may issue the person a new license, whenever the department determines that the grounds for suspension, revocation, or cancellation did not exist at the time the action was taken, if the person is otherwise eligible for a driver's license.

SEC. 10. Section 13557 of the Vehicle Code is amended to read:

13557. (a) The department shall review the determination made pursuant to Section 13353 or 13353.2 relating to any person who has received a notice of an order of suspension or revocation of the person's privilege to operate a motor vehicle pursuant to Section 13353, 13353.2, 23157, or 23158.5. The department shall consider the sworn report submitted by the peace officer pursuant to Section 23157 or 23158.2 and any other evidence accompanying the report.

(b) (1) If the department determines in the review of a determination made under Section 13353, by a preponderance of the evidence, that the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, the person was placed under arrest, the person refused or failed to complete the chemical test or tests after being requested by a peace officer, and, except for the persons described in Section 23157 who are incapable of refusing, the person had been told that his or her privilege to operate a motor vehicle would be suspended or revoked if he or she refused to submit to, and complete, the required testing, the department shall sustain the order of suspension or revocation. If the department determines, by a preponderance of the evidence, that any of those facts were not proven, the department shall rescind the order of suspension or revocation and, provided the person is otherwise eligible, return or reissue the person's driver's license pursuant to Section 13551. The determination of the department upon administrative review is final unless a hearing is requested pursuant to Section 13558.

(2) If the department determines in the review of a determination made under Section 13353.2, by the preponderance of the evidence, that the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, the person was placed under arrest, and the person was driving or was in actual physical control of a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood, the department shall sustain the order of suspension. If the

department determines that any of those facts were not proven by the preponderance of the evidence the department shall rescind the order of suspension and, provided that the person is otherwise eligible, return or reissue the person's driver's license pursuant to Section 13551. The determination of the department upon administrative review is final unless a hearing is requested pursuant to Section 13558.

(c) The department shall make the determination upon administrative review before the effective date of the order of suspension or revocation.

(d) The administrative review does not stay the suspension or revocation of a person's privilege to operate a motor vehicle. If the department is unable to make a determination on administrative review within the time limit in subdivision (c), the department shall stay the effective date of the order of suspension or revocation pending the determination and, if the person's driver's license has been taken by the peace officer pursuant to Section 23157 or 23158.5, the department shall notify the person before the expiration date of the temporary permit issued pursuant to Section 23157 or 23158.5, or the expiration date of any previous extension issued pursuant to this subdivision, in a form that permits the person to establish to any peace officer that his or her privilege to operate a motor vehicle is not suspended or revoked.

(e) A person may request and be granted a hearing pursuant to Section 13558 without first receiving the results of an administrative review pursuant to this section. After receiving a request for a hearing, the department is not required to conduct an administrative review of the same matter pursuant to this section.

(f) A determination of facts by the department under this section has no collateral estoppel effect on a subsequent criminal prosecution and does not preclude litigation of those same facts in the criminal proceeding.

SEC. 11. Section 13558 of the Vehicle Code is amended to read:

13558. (a) Any person, who has received a notice of an order of suspension or revocation of the person's privilege to operate a motor vehicle pursuant to Section 13353, 13353.2, 23157, or 23158.5 or a notice pursuant to Section 13557, may request a hearing on the matter pursuant to Article 3 (commencing with Section 14100) of Chapter 3, except as otherwise provided in this section.

(b) If the person wishes to have a hearing before the effective date of the order of suspension or revocation, the request for a hearing shall be made within ten days of the receipt of the notice of the order of suspension or revocation. Notwithstanding Section 14107, the hearing shall be held at a place designated by the department as close as practicable to the place where the arrest occurred, unless the parties agree to a different location. The evidence at the hearing shall not be limited to the evidence presented at an administrative review pursuant to Section 13557, if any.

(c) (1) The only issues at the hearing on an order of suspension or revocation pursuant to Section 13353 shall be whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, the person was placed under arrest, the person refused or failed to complete the chemical test or tests after being requested by a peace officer, and, except for the persons described in Section 23157 who are incapable of refusing, the person had been told that his or her privilege to operate a motor vehicle would be suspended or revoked if he or she refused to submit to, and complete, the required testing. Notwithstanding Section 14106 or 14110, the period of suspension or revocation specified in Section 13353 shall not be reduced and, notwithstanding Section 14105.5, the effective date of the order of suspension or revocation shall not be stayed pending review at a hearing pursuant to this section.

(2) The only issues at the hearing on an order of suspension pursuant to Section 13353.2 shall be whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, the person was placed under arrest, and the person was driving or in actual physical control of a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood. Notwithstanding Section 14106 or 14110, the period of suspension specified in Section 13353.3 shall not be reduced.

(d) The department shall hold the administrative hearing before the effective date of the order of suspension or revocation if the request for the hearing is postmarked or received by the department on or before ten days after the person's receipt of the service of the notice of the order of suspension or revocation pursuant to Section 13353.2 or 23158.5.

(e) A request for an administrative hearing does not stay the suspension or revocation of a person's privilege to operate a motor vehicle. If the department does not conduct an administrative hearing and make a determination after an administrative hearing within the time limit in subdivision (d), the department shall stay the effective date of the order of suspension or revocation pending the determination and, if the person's driver's license has been taken by the peace officer pursuant to Section 23157 or 23158.5, the department shall notify the person before the expiration date of the temporary permit issued pursuant to Section 23157 or 23158.5, or the expiration date of any previous extension issued pursuant to this subdivision, provided the person is otherwise eligible, in a form that permits the person to establish to any peace officer that his or her privilege to operate a motor vehicle is not suspended or revoked.

(f) The department shall give written notice of its determination pursuant to Section 14105 or 14111. If the department determines, upon a hearing of the matter, to suspend or revoke the person's privilege to operate a motor vehicle, notwithstanding the term of any temporary permit issued pursuant to Section 23157 or 23158.5,

the temporary permit shall be revoked and the suspension or revocation of the person's privilege to operate a motor vehicle shall become effective five days after notice is given. If the department sustains the order of suspension or revocation, the department shall include notice that the person has a right to review by the court pursuant to Section 13559.

(g) A determination of facts by the department upon a hearing pursuant to this section has no collateral estoppel effect on a subsequent criminal prosecution and does not preclude litigation of those same facts in the criminal proceeding.

SEC. 12. Section 13559 of the Vehicle Code is amended to read:

13559. (a) Notwithstanding Section 14400 or 14401, within 30 days of the issuance of the notice of determination of the department sustaining an order of suspension or revocation of the person's privilege to operate a motor vehicle after the hearing pursuant to Section 13558, the person may file a petition for review of the order in the court of competent jurisdiction in the person's county of residence. The filing of a petition for judicial review shall not stay the order of suspension or revocation. The review shall be on the record of the hearing and the court shall not consider other evidence. If the court finds that the department exceeded its constitutional or statutory authority, made an erroneous interpretation of the law, acted in an arbitrary and capricious manner, or made a determination which is not supported by the evidence in the record, the court may order the department to rescind the order of suspension or revocation and return, or reissue a new license to, the person.

(b) A finding by the court after a review pursuant to this section shall have no collateral estoppel effect on a subsequent criminal prosecution and does not preclude litigation of those same facts in the criminal proceeding.

SEC. 13. Section 14100 of the Vehicle Code is amended to read:

14100. Whenever the department has given notice or has taken or proposes to take action under Section 13353, 13353.2, 13950, 13951, 13952, or 13953, the person receiving the notice or subject to the action taken or proposed to be taken may, within ten days, either demand an informal hearing or a formal hearing which shall be granted, except as provided in Section 14101 or 14102. An application for a hearing shall not operate to stay the action by the department for which notice is given.

SEC. 14. Section 14905 of the Vehicle Code is amended to read:

14905. (a) Notwithstanding any other provision of this code, in lieu of the fees in Section 14904, before a driver's license may be issued, reissued, or returned to a person after suspension or revocation of the person's privilege to operate a motor vehicle pursuant to Section 13353 or 13353.2, there shall be paid to the department a fee in an amount of one hundred dollars ($100) to pay the costs of the administration of the administrative suspension and revocation programs for persons who refuse or fail to complete

chemical testing, as provided in Section 13353, or who drive with an excessive amount of alcohol in their blood, as provided in Section 13353.2, any costs of the Department of the California Highway Patrol related to the payment of compensation for overtime for attending any administrative hearings pursuant to Article 3 (commencing with Section 14100) of Chapter 3 and Section 23158.5, and any reimbursement for costs mandated by the state pursuant to subdivisions (f) and (g) of Section 23157.

(b) This section does not apply to a suspension or revocation that is set aside by the department or a court.

SEC. 15. Section 23157 of the Vehicle Code is amended to read:

23157. (a) (1) Any person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood, and to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 23152 or 23153. The testing shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of Section 23152 or 23153. The person shall be told that his or her failure to submit to, or the failure to complete, the required chemical testing will result in a fine, mandatory imprisonment if the person is convicted of a violation of Section 23152 or 23153, and (A) the suspension of the person's privilege to operate a motor vehicle for a period of one year, (B) the revocation of the person's privilege to operate a motor vehicle for a period of two years if the refusal occurs within seven years of a separate violation of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code which resulted in a conviction, or if the person's privilege to operate a motor vehicle has been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense which occurred on a separate occasion, or (C) the revocation of the person's privilege to operate a motor vehicle for a period of three years if the refusal occurs within seven years of two or more separate violations of Section 23103 as specified in Section 23103.5, Section 23152, or Section 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, or any combination thereof, which resulted in convictions, or if the person's privilege to operate a motor vehicle has been suspended or revoked two or more times pursuant to Section 13353 or 13353.2 for offenses which occurred on separate occasions, or if there is any combination of those convictions or administrative suspensions or revocations.

(2) (A) If the person is lawfully arrested for driving under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice. If the

person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, the person shall submit to the person's choice of the remaining tests or test, and the officer shall advise the person that the person has that choice.

(B) If the person is lawfully arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(C) A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the officer has reasonable cause to believe that the person was driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug and if the officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which that belief and that clear indication are based. The person has the choice of submitting to and completing a blood or urine test, and the officer shall advise the person that he or she is required to submit to an additional test and that he or she may choose a test of either blood or urine. If the person arrested either is incapable, or states that he or she is incapable, of completing either chosen test, the person shall submit to and complete the other remaining test.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 23152 or 23153, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests which are available at the facility to which that person has been transported. In such an event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The officer shall also advise the person that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests will result in the suspension or revocation of his or her privilege to operate a motor vehicle. Any person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(b) Any person who is afflicted with hemophilia is exempt from the blood test required by this section.

(c) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test required by this section.

(d) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle in violation of Section 23152 or 23153 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

(e) If the person, who has been arrested for a violation of Section 23152 or 23153, refuses or fails to complete a chemical test or tests, or requests that a blood or urine test be taken, the peace officer, acting on behalf of the department, shall serve the notice of the order of suspension or revocation of the person's privilege to operate a motor vehicle personally on the arrested person. The notice shall be on a form provided by the department.

(f) If the peace officer serves the notice of the order of suspension or revocation of the person's privilege to operate a motor vehicle, the peace officer shall take possession of any driver's license issued by this state which is held by the person. The temporary driver's license shall be an endorsement on the notice of the order of suspension and shall be valid for 45 days from the date of arrest.

(g) The peace officer shall immediately forward a copy of the completed notice of suspension or revocation form, a copy of the citation, and any driver's license taken into possession under subdivision (b), with the report required by Section 23158.2, to the department. If the person submitted to a blood or urine test, the peace officer shall cause the results of the chemical test to be forwarded to the department within 20 calendar days of the date of the arrest.

SEC. 16. Section 23158.2 of the Vehicle Code is amended to read:

23158.2. (a) If a peace officer arrests any person for a violation of Section 23152 or 23153, the peace officer shall immediately forward to the department a sworn report of all information relevant to the enforcement action, including information which adequately identifies the arrested person, a statement of the officer's grounds for belief that the person violated Section 23152 or 23153, a report of the results of any chemical tests which were conducted on the person or the circumstances constituting a refusal to submit to or complete the chemical testing pursuant to Section 23157, a copy of any notice to appear under which the person was released from custody, and, if immediately available, a copy of the complaint filed with the court. For purposes of this section and subdivision (g) of Section 23157, "immediately" means on or before the end of the fifth ordinary business day following the arrest.

(b) The peace officer's sworn report shall be made on forms

furnished or approved by the department.

SEC. 17. Section 23158.5 of the Vehicle Code is amended to read:

23158.5. (a) If the chemical test results for a person, who has been arrested for a violation of Section 23152 or 23153, show that the person has 0.08 percent or more, by weight, of alcohol in the person's blood, the peace officer, acting on behalf of the department, shall serve a notice of order of suspension of the person's privilege to operate a motor vehicle personally on the arrested person.

(b) If the peace officer serves the notice of order of suspension, the peace officer shall take possession of any driver's license issued by this state which is held by the person. When the officer takes possession of a valid driver's license, the officer shall issue, on behalf of the department, a temporary driver's license. The temporary driver's license shall be an endorsement on the notice of the order of suspension and shall be valid for 45 days from the date of arrest.

(c) The peace officer shall immediately forward a copy of the completed notice of order of suspension form, and any driver's license taken into possession under subdivision (b), with the report required by Section 23158.2, to the department. For purposes of this section, "immediately" means on or before the end of the fifth ordinary business day following the arrest.

SEC. 18. Section 23199 is added to the Vehicle Code, to read:

23199. If any person is convicted of a violation of Section 23152 or 23153 and is sentenced to one year in the county jail or more than one year in state prison under Section 23165, 23166, 23170, 23171, 23175, 23176, 23180, 23181, 23182, 23185, 23186, 23190, or 23191, the court may postpone the suspension of the person's driving privilege until the term of imprisonment is served.

SEC. 19. Section 23206.5 of the Vehicle Code is amended to read:

23206.5. (a) If any person is convicted of a violation of Section 23152 or 23153 and the offense was a second or subsequent offense punishable under Section 23165, 23170, 23175, 23185, or 23190, the court shall require that any term of imprisonment that is imposed include at least one period of not less than 48 consecutive hours of imprisonment or, in the alternative and notwithstanding Section 4024.2 of the Penal Code, that the person serve not less than 10 days of community service.

(b) Notwithstanding any other provision of law, except Section 2900.5 of the Penal Code, unless the court expressly finds in the circumstances that the punishment inflicted would be cruel or unusual punishment prohibited by Section 17 of Article I of the California Constitution, no court or person to whom a person is remanded for execution of sentence shall release, or permit the release of, a person from the requirements of subdivision (a), including, but not limited to, any work-release program, weekend service of sentence program, diversion or treatment program, or otherwise.

(c) For purposes of this section, "imprisonment" means confinement in a jail, in a minimum security facility, or in an

inpatient rehabilitation facility, as provided in Part 1309 (commencing with Section 1309.1) of Title 23 of the Code of Federal Regulations.

(d) This section shall become operative only if, and upon the date of the certification by, the Department of Motor Vehicles to the Secretary of State that California has submitted a completed application for federal Title 408 grant programs funds pursuant to that Part 1309.

SEC. 20. Section 23210 of the Vehicle Code is amended to read:

23210. A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada which, if committed in this state, would be a violation of Section 23152 or 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, is a conviction of Section 23152 or 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code for the purposes of this code.

SEC. 21. 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. 22. 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.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for efficient administration of the program of administrative suspension of the licenses of drunk drivers which becomes operative on July 1, 1990, it is necessary that this act take effect immediately.

CHAPTER 432

An act to amend Section 13127 of the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1990 Filed with Secretary of State July 26, 1990]

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

SECTION 1. Section 13127 of the Food and Agricultural Code is amended to read:

13127. (a) Not later than December 31, 1985, the department shall identify 200 pesticide active ingredients which the department determines have the most significant data gaps and widespread use and which are suspected to be hazardous to people. Not later than 30 days after the report issued pursuant to Section 13125, the department shall notify each registrant of a pesticide product containing any of the identified 200 pesticide active ingredients of the applicable data gap required to be filled pursuant to this section.

(b) Not later than December 31, 1985, the department shall also adopt a timetable for the filling of all data gaps on all pesticide active ingredients, other than those identified by the department pursuant to subdivision (a), which are currently registered or licensed in California. The department shall notify registrants of the applicable data gaps and the scheduled time to initiate and complete studies as provided in the timetable.

(c) (1) Not later than September 1, 1986, the department shall determine whether a test has been initiated to fill each of the data gaps for each pesticide active ingredient identified in subdivision (a). If no test has been initiated, the department shall fill data gaps in accordance with procedures provided in subparagraph (B) of paragraph (2) of subsection (c) of Section 136a of Title 7 of the United States Code. In order to carry out this section, the director has the same authority to require information from registrants of active pesticide ingredients that the Administrator of the Environmental Protection Agency has pursuant to subparagraph (B) of paragraph (2) of subsection (c) of Section 136a of Title 7 of the United States Code. On or before July 1, 1986, the director shall, by regulation, prescribe procedures for resolving disputes or funding the filling of data gaps. The procedures may include mediation and arbitration. The arbitration procedures, insofar as practical, shall be consistent with the federal act, or otherwise shall be in accordance with the commercial arbitration rules established by the American Arbitration Association. The procedures shall be established so as to resolve any dispute within the timetable established in subdivision (a) of Section 13127.

(2) The department shall also obtain the data which is identified

in subdivision (b), according to the timetable and procedures specified in this section.

(d) (1) Not later than March 1, 1987, the director shall again determine whether tests have been initiated to fill each of the data gaps for each pesticide active ingredient identified in subdivision (a). If the tests have not been initiated or if, having been initiated, the tests are not completed within a reasonable time not to exceed four years, the director shall obtain the required test results. The director may utilize assessments charged to those registrants of the active ingredient for which the data gaps exist in amounts necessary to cover the department's expenses in filling the data gaps. Any assessments shall be made pursuant to Section 12824. The director may also request an appropriation to be used in combination with assessments to obtain the required test results. The director shall initiate the tests as soon as possible, and the tests shall be completed within a reasonable time, not to exceed four years after initiation.

The director shall furnish not less than 30 days' public notice of any proposed action under this paragraph, stating the reasons therefor and allowing public comment thereon. Copies of this notice and final decision shall be provided to the appropriate committees of the Legislature.

(2) The director shall monitor compliance with the timetable established pursuant to subdivision (b) of Section 13127. If the director determines that tests are not initiated or completed according to the timetable, the director shall obtain the required test results as provided in paragraph (1).

(3) The director shall review the timetable established by the Environmental Protection Agency for the accelerated registration program under amendments effective in 1989 to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 135 et seq.).

(e) (1) This section does not apply to any product which the director determines has limited use or that substantial economic hardship would result to users due to unavailability of the product and there is not significant exposure to the public or workers and the product is otherwise in compliance with federal law.

(2) The director may not, pursuant to this subdivision, exempt all pesticide products containing the same pesticide active ingredient unless it is determined that the pesticide active ingredient has only limited use, there is insignificant exposure to workers or the public, and the products are otherwise in compliance with federal law. Any exemption issued pursuant to this paragraph shall expire at the end of three years after it is issued.

(f) (1) Whenever the director exercises the authority provided in paragraph (1) of subdivision (e), he or she shall give public notice of the action stating the reasons for exempting the pesticide product from the data requirements of this article. Copies of this notice shall be provided to the appropriate policy committees of the Legislature.

(2) Whenever the director acts pursuant to paragraph (2) of

subdivision (e), the director shall furnish not less than 30 days' public notice of the proposed action, stating the reasons for exempting the pesticide product from the data requirements of this article and allowing public comment thereon. Copies of the notice and the final decision shall be provided to the appropriate policy committees of the Legislature.

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 for pesticide active ingredient data gaps to be determined as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 433

An act to add Section 31479.3 to the Government Code, relating to county employee retirement.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990]

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

SECTION 1. Section 31479.3 is added to the Government Code, to read:

31479.3. "Public service" also means service in the merchant marine of the United States during the period of December 7, 1941, through August 15, 1945, whether or not the employee received compensation from the United States Government and with respect to which he or she is not entitled to receive credit in any retirement system supported wholly or in part by public funds after he or she became a member of this system. This section shall apply to both members and retired members of a county retirement association subject to this chapter. Both members and retired members may purchase public service credit pursuant to Sections 31641.1 and 31641.2. For a retired member the additional pension amount accruing because of any public service credit purchased shall be computed as though the service had been credited on the effective date of retirement and increased by any cost-of-living increases which may have been granted since the effective date of retirement and shall begin as of the first of the month following either the date of receipt of the retired member's election to purchase the credit pursuant to Section 31641.1 or the date of receipt of the full cost of the purchase computed pursuant to Section 31641.2 whichever is later.

This section shall not be operative in any county until the board of supervisors shall, by resolution adopted by a majority vote, make

this section applicable in the county.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 434

An act to amend Section 5385.5 of the Public Utilities Code, relating to carriers.

[Approved by Governor July 25, 1990 Filed with Secretary of State July 26, 1990.]

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

SECTION 1. Section 5385.5 of the Public Utilities Code is amended to read:

5385.5. For motor vehicles designed to carry not more than eight passengers, including the driver, the commission shall issue a suitable decal for purposes of Section 5385, for each vehicle registered with the commission and operated by a charter-party carrier of passengers holding a valid permit or certificate of public convenience and necessity. The decal with an identifying symbol shall be a minimum size of two and one-half inches by six inches, and shall be affixed to the lower right hand corner of the rear bumper of the vehicle.

CHAPTER 435

An act to amend Sections 15610 and 15632 of the Welfare and Institutions Code, relating to aging.

[Approved by Governor July 25, 1990. Filed with Secretary of State July 26, 1990.]

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 or psychotropic medication under any of the following conditions:

(A) For punishment.

(B) For a period significantly beyond that for which the restraint or medication was authorized pursuant to the instructions of a physician licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the

instructions are given.

(C) For any purpose not consistent with that authorized by the physician.

(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, isolation, 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.

(1) For purposes of this subdivision, "isolation" includes any of the following:

(A) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.

(B) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor, where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.

(C) False imprisonment, as defined in Section 236 of the Penal Code.

(D) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(2) The acts set forth in paragraph (1) shall be subject to a rebuttable presumption that they do not constitute isolation if they

are performed pursuant to the instructions of a physician licensed to practice medicine in the State of California, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(3) The acts set forth in paragraph (1) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safety.

(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. Section 15632 of the Welfare and Institutions Code is amended to read:

15632. (a) Any person who enters into employment on or after January 1, 1986, as a care custodian, health practitioner, or with an adult protective services agency or a local law enforcement agency, prior to commencing his or her employment and as a prerequisite to that employment shall sign a statement on a form, which shall be provided by the prospective employer, to the effect that he or she has knowledge of Section 15630 and will comply with its provisions. The signed statement shall be retained by the employer.

(b) Agencies or facilities that employ persons required to make reports pursuant to Section 15630, who were employed prior to January 1, 1986, shall inform those persons of their responsibility to make reports by delivering to them a copy of the statement specified in subdivision (c).

(c) The statement shall be in the following form:

California state law REQUIRES care custodians, health practitioners, and employees of adult protective services agencies and local law enforcement agencies to report physical abuse of elders and dependent adults.

Those professionals must report physical abuse under the following circumstances:

(1) When the reporter has observed an incident that reasonably appears to be physical abuse.

(2) When the reporter has observed a physical injury where the nature of the injury, its location on the body, or the repetition of the injury, clearly indicates that physical abuse has occurred.

(3) When the reporter is told by an elder or a dependent adult that he or she has experienced behavior constituting physical abuse.

The report must be made immediately, or as soon as possible, by telephone to either the long-term care ombudsman coordinator or to a local law enforcement agency when the abuse is alleged to have occurred in a long-term care facility, or to either the county adult protective services agency or to a local law enforcement agency when the abuse is alleged to have occurred anywhere else, and must be followed by a written report within two working days. The report must include:

(1) The name of the person making the report.

(2) The name, age, and present location of the elder or dependent adult.

(3) The names and addresses of family members or other persons

responsible for the elder or dependent adult's care, if known.

(4) The nature and extent of the person's condition.

(5) Any information that led the reporter to suspect that abuse has occurred.

(6) The date of the incident.

State law also PERMITS the reporting of other types of abuse of elders and dependent adults, such as neglect, intimidation, fiduciary abuse, abandonment, isolation, or other treatment that results in physical harm, pain, or mental suffering. These reports may be made when the reporter has actual knowledge or reasonably suspects that abuse has occurred. If the conduct involves criminal activity not constituting physical abuse, it may be immediately reported to a law enforcement agency.

The law provides that care custodians, health practitioners, or employees of adult protective services agencies or local law enforcement agencies shall not incur either civil or criminal liability for any report they are required or permitted to make under this law.

However, failure to report physical abuse of an elder or dependent adult is a misdemeanor, punishable by not more than six months in the county jail or by a fine of not more than one thousand dollars ($1,000), or by both fine and imprisonment.

Reports made under this law are confidential and may be disclosed only to the agencies specified. Violation of the confidentiality provisions is also a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than five hundred dollars ($500), or by both fine and imprisonment.

The following is the exact text of portions of the elder and dependent adult abuse reporting law which pertain to the responsibilities of professionals who are required to report abuse of elders and dependent adults:

CONDITIONS UNDER WHICH REPORTING OF PHYSICAL ABUSE IS REQUIRED:

Subdivision (a) of Section 15630 of the Welfare and Institutions Code:

"(a) (1) Any elder or dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency, who in his or her professional capacity or within the scope of his or her employment, either has observed an incident that reasonably appears to be physical abuse, has observed a physical injury where the nature of the injury, its location on the body, or the repetition of the injury, clearly indicates that physical abuse has occurred, or is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, shall report the known or suspected instance of physical abuse either to the long-term care ombudsman coordinator or to a local law enforcement agency when the physical abuse is alleged to have occurred in a long-term care facility, or to

either the county adult protective services agency or to a local law enforcement agency when the physical abuse is alleged to have occurred anywhere else, immediately or as soon as possible by telephone, and shall prepare and send a written report thereof within two working days.

(2) The reports required by this section should contain the following information unless the information is unavailable by the person reporting:

(A) The name, address, telephone number, and occupation of the person reporting.

(B) The name and address of the victim.

(C) The date, time, and place of the incident.

(D) Other details, including the reporter's observations and beliefs concerning the incident.

(E) Any statement relating to the incident made by the victim.

(F) The name of any individuals believed to have knowledge of the incident.

(G) The name of the individuals believed to be responsible for the incident and their connection to the victim."

CONDITIONS UNDER WHICH REPORTING OF ABUSE IS PERMITTED:

Subdivision (b) of Section 15630 of the Welfare and Institutions Code:

"(b) Any care custodian, health practitioner, or employee of an adult protective services agency or local law enforcement agency who has knowledge of or reasonably suspects that other types of elder or dependent adult abuse have been inflicted upon an elder or dependent adult or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse either to a long-term care ombudsman coordinator when the abuse is alleged to have occurred in a long-term care facility, or to the county adult protective services agency when the abuse is alleged to have occurred anywhere else. If the conduct involves criminal activity not already covered by subdivision (a), it may be immediately reported to the appropriate law enforcement agency."

PROFESSIONALS WHO ARE REQUIRED TO REPORT PHYSICAL ABUSE OF ELDERS AND DEPENDENT ADULTS:

(a) Care custodians, as defined by subdivision (h) of Section 15610 of the Welfare and Institutions Code:

"(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 offical 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."

(b) Health practitioners, as defined by subdivision (i) of Section 15610 of the Welfare and Institutions Code:

"(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."

(c) Employees of adult protective services agencies, as defined by subdivision (j) of Section 15610 of the Welfare and Institutions Code:

"(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."

(d) Employees of local law enforcement agencies, as defined by subdivision (r) of Section 15610 of the Welfare and Institutions Code:

"(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."

DEFINITION OF "ELDER":

Subdivision (a) of Section 15610 of the Welfare and Institutions Code:

"(a) 'Elder' means any person residing in this state, 65 years of age or older."

DEFINITION OF "DEPENDENT ADULT":

Subdivision (b) of Section 15610 of the Welfare and Institutions Code:

"(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."

DEFINITION OF "ABUSE OF AN ELDER OR A DEPENDENT ADULT":

Subdivision (g) of Section 15610 of the Welfare and Institutions Code:

"(g) 'Abuse of an elder or a dependent adult' means physical abuse, neglect, intimidation, cruel punishment, fiduciary abuse, abandonment, isolation, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods and services which are necessary to avoid physical harm or mental suffering.

(1) For purposes of this subdivision, 'isolation' includes any of the following:

(A) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.

(B) Telling a caller or prospective visitor that an elder or

dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor, where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.

(C) False imprisonment, as defined in Section 236 of the Penal Code.

(D) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(2) The acts set forth in paragraph (1) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician licensed to practice medicine in the State of California, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(3) The acts set forth in paragraph (1) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safety."

DEFINITION OF "PHYSICAL ABUSE":

Subdivision (c) of Section 15610 of the Welfare and Institutions 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 or psychotropic medication under any of the following conditions:

(A) For punishment.

(B) For a period significantly beyond that for which the restraint or medication was authorized pursuant to the instructions of a physician licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the

instructions are given.

(C) For a purpose other than that authorized by the physician.

(d) The cost of printing, distribution, and filing of these statements shall be borne by the employer.

(e) On and after January 1, 1987, 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 15630, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (c) to the person at the same time as it transmits the document indicating licensure or certification to the person.

(f) As an alternative to the procedure required by subdivision (e), 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, 1987.

(g) The retention of statements required by subdivision (a), and the delivery of statements required by subdivision (b) shall be the full extent of the employer's duty pursuant to this section. The failure of any employee or other person associated with the employer to report physical abuse of elders or dependent adults or otherwise meet the requirements of this chapter shall be the sole responsibility of that person. The employer or facility shall incur no civil or other liability for the failure of those persons to comply with the requirements of this chapter.

CHAPTER 436

An act to add Section 13131.5 to the Health and Safety Code, relating to fire protection.

[Approved by Governor July 26, 1990. Filed with Secretary of State July 27, 1990.]

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

SECTION 1. Section 13131.5 is added to the Health and Safety Code, to read:

13131.5. (a) All of the following building standards shall apply to any single-story building housing nonambulatory persons which is operated as a residential care facility for the elderly and licensed to care for more than six persons:

(1) The entire building shall have installed a State Fire Marshal approved fully automatic fire extinguishing system, designed and installed in accordance with Section 2-3801 (d) of Chapter 2-38 of Part 2 of Title 24 of the California Code of Regulations.

(2) The entire building shall have installed a State Fire Marshal approved and listed manual fire alarm system.

(3) The entire building shall be of at least Type V one-hour fire

resistive construction, as described in Chapter 2-22 of Part 2 of Title 24 of the California Code of Regulations.

(4) A building with individual floor areas over 6,000 square feet per floor shall have an approved smoke barrier dividing the floor approximately in half, unless there is direct exiting available from each dwelling unit.

(b) All of the following building standards shall apply to any two-story building housing nonambulatory persons on a second floor, which is operated as a residential care facility for the elderly and licensed to care for more than six persons:

(1) The entire building shall have installed a State Fire Marshal approved fully automatic fire extinguishing system, designed and installed in accordance with Section 2-3801 (d) of Chapter 2-38 of Part 2 of Title 24 of the California Code of Regulations.

(2) The entire building shall have installed a State Fire Marshal approved and listed automatic fire alarm system.

(3) The entire building shall be of at least Type V one-hour fire resistive construction, as described in Chapter 2-22 of Part 2 of Title 24 of the California Code of Regulations.

(4) A building with individual floor areas over 6,000 square feet per floor shall have an approved smoke barrier dividing the floor approximately in half, without regard to whether direct exiting is available from each dwelling unit.

(5) The entire building shall have at least two sets of enclosed stairways.

(c) All of the following building standards shall apply to any multistory building housing nonambulatory persons on the third, fourth, or fifth floor, which is operated as a residential care facility for the elderly and licensed to care for more than six persons:

(1) The entire building, unless otherwise exempt pursuant to subdivision (d) of Section 13113, shall have installed a State Fire Marshal approved fully automatic fire extinguishing system, designed and installed in accordance with Section 2-3801(d) of Chapter 2-38 of Part 2 of Title 24 of the California Code of Regulations.

(2) The entire building shall have installed a State Fire Marshal approved and listed automatic fire alarm system.

(3) The entire building shall be of Type II fire resistive construction, as described in Chapter 2-19 of Part 2 of Title 24 of the California Code of Regulations.

(4) A building with individual floor areas over 6,000 square feet per floor shall have an approved smoke barrier dividing the floor approximately in half, without regard to whether direct exiting is available from each dwelling unit.

(5) The entire building shall have at least two sets of enclosed stairways.

(d) All of the following building standards shall apply to any multistory building housing nonambulatory persons on floors above the fifth floor, which is operated as a residential care facility for the

elderly and licensed to care for more than six persons:

(1) The entire building, unless otherwise exempt pursuant to subdivision (d) of Section 13113, shall have installed a State Fire Marshal approved fully automatic fire extinguishing system, designed and installed in accordance with Section 2-3801(d) of Chapter 2-38 of Part 2 of Title 24 of the California Code of Regulations.

(2) The entire building shall have installed a State Fire Marshal approved and listed automatic fire alarm system.

(3) The entire building shall be Type I fire resistive construction, as described in Chapter 2-18 of Part 2 of Title 24 of the California Code of Regulations.

(4) A building with individual floor areas over 6,000 square feet per floor shall have an approved smoke barrier dividing the floor approximately in half, without regard to whether direct exiting is available from each dwelling unit.

(5) The entire building shall have at least two sets of enclosed stairways.

(e) This section and the regulations adopted by the State Fire Marshal pursuant to subdivision (f) shall apply uniformly throughout the state and no city, county, city and county, or district shall adopt any ordinance, rule, or regulation which is inconsistent with this section or with the regulations adopted by the State Fire Marshal pursuant to subdivision (f).

(f) The State Fire Marshal shall adopt regulations establishing a reasonable fee, not to exceed the actual costs of inspection to the agency conducting the inspection, for the final inspection of any facility which is subject to the standards established pursuant to this section.

(g) This section shall be enforced in accordance with the division of authority prescribed in Section 13146.

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.

Further, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution as a result of 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.

Also, notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 437

An act to amend Section 70.1 of the Labor Code, relating to the Industrial Welfare Commission.

[Approved by Governor July 26, 1990. Filed with Secretary of State July 27, 1990.]

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

SECTION 1. Section 70.1 of the Labor Code is amended to read:

70.1. The Industrial Welfare Commission shall be composed of two representatives of organized labor who are members of recognized labor organizations, two representatives of employers, and one representative of the general public. The membership shall include members of both sexes.

CHAPTER 438

An act to add Section 5616 to the Business and Professions Code, relating to landscape architecture.

[Approved by Governor July 26, 1990. Filed with Secretary of State July 27, 1990]

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

SECTION 1. Section 5616 is added to the Business and Professions Code, to read:

5616. Any certified landscape architect who agrees to provide professional services pursuant to this chapter shall provide every customer with a detailed written contract. That written contract shall include, but not be limited to, all of the following:

(a) A full description of services to be rendered by the landscape architect.

(b) A list of any consultants who may be utilized under the contract.

(c) The date of completion of the work to be performed under the contract.

(d) The total price that is required to complete the contract which fully discloses one of the following:

(1) The amount of the lump sum of the services.

(2) The hourly fee, not to exceed an expressed amount.

(3) The percentage of the construction costs used in computing the total price.

(4) Any other method of payment agreed to by both parties.

(e) A notice in prominent type which reads: "LANDSCAPE ARCHITECTS ARE REGULATED BY THE CALIFORNIA BOARD

OF LANDSCAPE ARCHITECTS. ANY QUESTIONS CONCERNING A LANDSCAPE ARCHITECT MAY BE REFERRED TO THE BOARD AT:

BOARD OF LANDSCAPE ARCHITECTS
(CURRENT ADDRESS)
SACRAMENTO, CA. (CURRENT ZIP CODE)
(CURRENT AREA CODE AND TELEPHONE NUMBER)"

(f) The name, address, and certificate number of the landscape architect.

(g) A description of the procedure that the landscape architect and client will use to accommodate additional services.

CHAPTER 439

An act to amend Section 20118.3 of the Public Contract Code, relating to school districts.

[Approved by Governor July 26, 1990. Filed with Secretary of State July 27, 1990]

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

SECTION 1. Section 20118.3 of the Public Contract Code is amended to read:

20118.3. 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 become operative January 1, 1989, and is declaratory of existing law and practice.

CHAPTER 440

An act to amend Section 202 of the Labor Code, relating to wages.

[Approved by Governor July 26, 1990. Filed with Secretary of State July 27, 1990.]

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

SECTION 1. Section 202 of the Labor Code is amended to read:

202. If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention

to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

CHAPTER 441

An act to amend Sections 22352, 22357, and 22358.4 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1990 Filed with Secretary of State July 30, 1990.]

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

SECTION 1. Section 22352 of the Vehicle Code is amended to read:

22352. The prima facie limits are as follows and shall be applicable unless changed as authorized in this code and, if so changed, only when signs have been erected giving notice thereof:

(a) Fifteen miles per hour:

(1) When traversing a railway grade crossing, if during the last 100 feet of the approach to the crossing the driver does not have a clear and unobstructed view of the crossing and of any traffic on the railway for a distance of 400 feet in both directions along the railway. This subdivision does not apply in the case of any railway grade crossing where a human flagman is on duty or a clearly visible electrical or mechanical railway crossing signal device is installed but does not then indicate the immediate approach of a railway train or car.

(2) When traversing any intersection of highways if during the last 100 feet of the driver's approach to the intersection the driver does not have a clear and unobstructed view of the intersection and of any traffic upon all of the highways entering the intersection for a distance of 100 feet along all those highways, except at an intersection protected by stop signs or yield right-of-way signs or controlled by official traffic control signals.

(3) On any alley.

(b) Twenty-five miles per hour:

(1) On any highway other than a state highway, in any business or residence district unless a different speed is determined by local authority under procedures set forth in this code.

(2) When passing a school building or the grounds thereof, contiguous to a highway and posted with a standard "SCHOOL" warning sign, while children are going to or leaving the school either

during school hours or during the noon recess period. The prima facie limit shall also apply when passing any school grounds which are not separated from the highway by a fence, gate or other physical barrier while the grounds are in use by children and the highway is posted with a standard "SCHOOL" warning sign.

(3) When passing a senior center or other facility primarily used by senior citizens, contiguous to a street other than a state highway and posted with a standard "SENIOR" warning sign. A local authority is not required to erect any sign pursuant to this paragraph until donations from private sources covering those costs are received and the local agency makes a determination that the proposed signing should be implemented. If the local agency makes a determination to implement the signing but does not need, or chooses not to require, private donations to cover the cost, it may erect the signs at its own expense.

SEC. 2. Section 22357 of the Vehicle Code is amended to read:

22357. Whenever a local authority determines upon the basis of an engineering and traffic survey that a speed greater than 25 miles per hour would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon any street other than a state highway otherwise subject to a prima facie limit of 25 miles per hour, the local authority may by ordinance determine and declare a prima facie speed limit of 30, 35, 40, 45, or 50 miles per hour or a maximum speed limit of 55 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe. The declared prima facie or maximum speed limit shall be effective when appropriate signs giving notice thereof are erected upon the street and shall not thereafter be revised except upon the basis of an engineering and traffic survey. This section does not apply to any 25-mile-per-hour prima facie limit which is applicable when passing a school building or the grounds thereof or when passing a senior center or other facility primarily used by senior citizens.

SEC. 3. Section 22358.4 of the Vehicle Code is amended to read:

22358.4. Whenever a local authority determines upon the basis of an engineering and traffic survey that the prima facie speed limit of 25 miles per hour established by paragraph (2) or (3) of subdivision (b) of Section 22352 is more than is reasonable or safe, the local authority may, by ordinance or resolution, determine and declare a prima facie speed limit of 20 or 15 miles per hour, whichever is justified as the appropriate speed limit by such survey. The ordinance or resolution shall not be effective until appropriate signs giving notice of the speed limit are erected upon the highway and, in the case of a state highway, until the ordinance is approved by the Department of Transportation and the appropriate signs are erected upon the highway.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 442

An act to amend Section 21642 of the Business and Professions Code, relating to secondhand dealers.

[Approved by Governor July 27, 1990 Filed with Secretary of State July 30, 1990.]

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

SECTION 1. Section 21642 of the Business and Professions Code is amended to read:

21642. (a) A license granted pursuant to Section 21641 shall be renewable the second year from the date of issue, and every other year thereafter, upon the filing of a renewal application and the payment of a license renewal fee specified by the licensing authority. The Department of Justice may also charge a fee of not more than twelve dollars ($12) but not to exceed the actual processing costs of the department. After the department establishes a fee sufficient to reimburse the department for processing costs, the fee charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget. The licensing authority shall collect the fee and transmit the fee and a copy of the renewed license to the Department of Justice.

(b) The license shall be subject to forfeiture by the licensing authority and the licensee's activities as a secondhand dealer shall be subject to being enjoined pursuant to Section 21646 for breach, and the authority may impose any of the following conditions:

(1) The business shall be carried on only in the building or buildings designated on the license.

(2) The license or a copy thereof, certified by the licensing authority, shall be displayed on the premises where it easily can be seen.

(3) The licensee shall not engage in any act which the licensee knows to be in violation of this article.

(4) The licensee shall not be convicted of an attempt to receive stolen property or any other offense involving stolen property. For the purposes of this paragraph, "convicted" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the chief of police, the sheriff or, where appropriate, the police commission, is permitted to take following the

establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(c) Notwithstanding subdivisions (a) and (b), no person shall have his or her renewal application for a secondhand dealer's license denied, nor shall his or her secondhand dealer's license be forfeited solely on the grounds that he or she violated any provision contained in Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of this chapter, or any provision contained in Chapter 2 (commencing with Section 21200) of Division 8 of the Financial Code, unless the violation demonstrates a pattern of conduct.

SEC. 2. The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, and if the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 443

An act to amend Sections 18905.1, 18912, 18913, and 18914 of the Welfare and Institutions Code, relating to public assistance.

[Approved by Governor July 27, 1990 Filed with Secretary of State July 30, 1990.]

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

SECTION 1. Section 18905.1 of the Welfare and Institutions Code is amended 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.

SEC. 2. Section 18912 of the Welfare and Institutions Code is amended 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.

SEC. 3. Section 18913 of the Welfare and Institutions Code is amended 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.

SEC. 4. 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.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 444

An act to amend Section 5003 of the Education Code, relating to school district elections.

[Approved by Governor July 27, 1990. Filed with Secretary of State July 30, 1990.]

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

SECTION 1. Section 5003 of the Education Code is amended to read:

5003. (a) Notwithstanding Sections 35105 and 5000, in the case of a unified school district formed in an even-numbered year, where in connection with the formation of which the first governing board was elected in such even-numbered year, all of the members of that first elected governing board shall serve until the last Friday in November of the second succeeding odd-numbered year. Their successors shall be elected at an election conducted on the first Tuesday after the first Monday in November of that second succeeding odd-numbered year. The majority of those successors receiving the highest number of votes shall serve until the last Friday in November of the second odd-numbered year thereafter succeeding. The other members' terms shall expire on the last Friday in November of the first odd-numbered year thereafter succeeding.

(b) Notwithstanding subdivision (a), the governing board of a unified school district formed in an even-numbered year may provide, pursuant to an appropriate resolution adopted by the governing board, that the majority of the members of the governing board who received the highest number of votes in the first election of governing board members for the district shall serve until the last Friday in November of the third odd-numbered year succeeding that first election, and that the other members' terms shall expire on the last Friday in November of the second odd-numbered year succeeding that first election. The resolution described in this subdivision shall be adopted on or before March 15 of the second odd-numbered year succeeding the first election of the governing board.

CHAPTER 445

An act to add Section 1417.2 to the Health and Safety Code, relating to long-term health care facilities.

[Approved by Governor July 27, 1990. Filed with Secretary of State July 30, 1990.]

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

SECTION 1. Section 1417.2 is added to the Health and Safety Code, to read:

1417.2. (a) Notwithstanding Section 1428, moneys collected as a result of civil penalties imposed under this chapter shall be deposited into an account which is hereby established in the Special Deposit Fund under the provisions of Section 16370 of the Government Code. This account is entitled the Health Facilities Citation Penalties Account and shall, upon appropriation by the Legislature, be used for the protection of health or property of residents of long-term health care facilities, including, but not limited to, the following:

(1) Relocation expenses incurred by the state department.

(2) Maintenance of facility operation pending correction of deficiencies or closure, such as temporary management or receivership.

(3) Reimbursing residents for personal funds lost.

(b) Notwithstanding subdivision (a), the balance in the Health Facilities Citation Penalties Account shall not, at any time, exceed one million dollars ($1,000,000).

CHAPTER 446

An act to amend Sections 6588, 54711, 54715, 54716, 54717, and 54718 of, and to add Section 54710.3 to, the Government Code, and to amend Sections 8570, 8571, 8650.1, 8651.5, 8672, 8680, 8682, 8766.5, 8769, 8830, 8834, 10010, 10109, 10427, 10427.1, and 22569 of, and to add Sections 3114.3, 8514, and 9622 to, the Streets and Highways Code, relating to local agencies.

[Approved by Governor July 30, 1990. Filed with Secretary of State July 31, 1990]

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

SECTION 1. Section 6588 of the Government Code is amended to read:

6588. In addition to other powers specified in an agreement pursuant to Article 1 (commencing with Section 6500) and Article 2 (commencing with Section 6540), the authority may do any or all of

the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Sue and be sued in its own name.

(c) Issue bonds, including, at the option of the authority, bonds bearing interest, to pay the cost of any public capital improvement, working capital, or liability or other insurance program.

(d) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this article.

(e) As provided by applicable law, employ and compensate bond counsel, financial consultants, and other advisers determined necessary by the authority in connection with the issuance and sale of any bonds.

(f) Contract for engineering, architectural, accounting, or other services determined necessary by the authority for the successful development of a public capital improvement.

(g) Pay the reasonable costs of consulting engineers, architects, accountants, and construction, land-use, recreation, and environmental experts employed by any sponsor or participant if the authority determines those services are necessary for the successful development of public capital improvements.

(h) Take title to, and sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands which are located within the state which the authority determines are necessary or convenient for the financing of public capital improvements, or any portion thereof.

(i) Receive and accept from any source, loans, contributions, or grants, in either money, property, labor, or other things of value, for, or in aid of, the construction financing, or refinancing of public capital improvement, or any portion thereof or for the financing of working capital or insurance programs, or for the payment of the principal of and interest on bonds if the proceeds of those bonds are used for one or more of the purposes specified in this section.

(j) Make secured or unsecured loans to any local agency in connection with the financing of capital improvement projects, working capital or insurance programs in accordance with an agreement between the authority and the local agency. However, no loan shall exceed the total cost of the public capital improvements, working capital or insurance needs of the local agency as determined by the local agency and by the authority.

(k) Make secured or unsecured loans to any local agency in accordance with an agreement between the authority and the local agency to refinance indebtedness incurred by the local agency in connection with public capital improvements undertaken and completed.

(*l*) Mortgage all or any portion of its interest in public capital improvements and the property on which any project is located, whether owned or thereafter acquired, including the granting of a

security interest in any property, tangible or intangible.

(m) Assign or pledge all or any portion of its interests in mortgages, deeds of trust, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible, of a local agency to which the authority has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the authority, for the benefit of the holders of bonds issued to finance public capital improvements. The pledge of moneys, revenues, accounts, contract rights, or rights to payment of any kind made by or to the authority pursuant to the authority granted in this part shall be valid and binding from the time the pledge is made for the benefit of the pledgees and successors thereto, against all parties irrespective of whether the parties have notice of the claim.

(n) Lease the public capital improvements being financed to a local agency, upon terms and conditions that the authority deems proper; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations of the lease; include in any lease provisions that the lessee shall have options to renew the lease for a period or periods, and at rents as determined by the authority; purchase or sell by an installment agreement or otherwise any or all of the public capital improvements; or, upon payment of all the indebtedness incurred by the authority for the financing or refinancing of the public capital improvements, the authority may convey any or all of the project to the lessee or lessees.

(o) Charge and apportion to local agencies which benefit from its services the administrative costs and expenses incurred in the exercise of the powers authorized by this article.

(p) Issue, obtain, or aid in obtaining, from any department or agency of the United States or of the state, or any private company, any insurance or guarantee to, or for, the payment or repayment of interest or principal, or both, or any part thereof, on any loan, lease, or obligation or any instrument evidencing or securing the same, made or entered into pursuant to this article.

(q) Notwithstanding any other provision of this article, enter into any agreement, contract, or any other instrument with respect to any insurance or guarantee; accept payment in the manner and form as provided therein in the event of default by a local agency; and assign any insurance or guarantee which acts as security for the authority's bonds.

(r) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary, convenient, or desirable to carry out any power authorized by this article.

(s) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, in obligations that are authorized by law for the investment of trust funds.

(t) At the request of affected local agencies, combine and pledge revenues to public capital improvements for repayment of one or

more series of bonds issued pursuant to this article.

(u) Delegate to any of its individual parties or other responsible individuals the power to act on its behalf subject to its general direction, guidelines, and oversight.

(v) Purchase, with the proceeds of its bonds or its revenue, bonds issued by any local agency at public or negotiated sale. Bonds purchased pursuant to this subdivision may be held by the authority or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the authority. No bonds issued by any local agency shall be purchased pursuant to this chapter by an authority at a price to yield in excess of the greater of (1) the yield on the bonds of the authority used to purchase those bonds, (2) the then current market yield that the bonds being acquired by the authority, including a proportionate share of any reserve fund or credit enhancement securing the authority's bonds, would bear if they were to be sold to the public, as certified to the authority by a financial advisor or underwriter with substantial experience with tax-exempt obligations of the same general character as those bonds, or (3) if the bonds being acquired by the authority are issued to refund prior bonds, the yield of the prior bonds. However, the bonds being acquired by the authority or related documents or proceedings may provide for additional payments to the authority necessary to pay expenses incurred in connection with the issuance of the authority's bonds to the extent paid to third parties, not including the authority or any member of the authority, or to pay the reasonable costs of administration of the authority's bonds. The limitation of this subdivision applies to bonds acquired by an authority after January 1, 1991, regardless of the date of issuance of bonds by the authority.

(w) Set any other terms and conditions on any purchase or sale pursuant to this section as it deems by resolution to be necessary, appropriate, and in the public interest, in furtherance of the purposes of this article.

SEC. 1.5. Section 54710.3 is added to the Government Code, to read:

54710.3. Any local agency which obligates itself to advance available funds to cure a bond redemption fund deficiency pursuant to subdivision (a) of Section 8769 of the Streets and Highways Code may impose a benefit assessment pursuant to this chapter in order to satisfy the obligation or in anticipation of having to satisfy the obligation, except that the assessment shall not exceed thirty dollars ($30) per parcel per year, shall be actually levied and collected in any year only if needed because of a bond redemption fund deficiency, and shall only be used to cure redemption fund deficiencies with respect to assessment districts, the area of which is at least 60 percent developed.

SEC. 2. Section 54711 of the Government Code is amended to read:

54711. (a) No benefit assessment shall be levied pursuant to this

chapter unless it meets all of the following requirements:

(1) The amount of the assessment imposed on any parcel of property shall be related to the benefit to the parcel which will be derived from the provision of the service. Except as provided in subdivision (d) or (e) of Section 54715, in the case of a benefit assessment for flood control services, the benefit may be determined on the basis of the proportionate storm water runoff from each parcel. In the case of an assessment for the maintenance of streets, roads, or highways, the benefit may be in proportion to the estimated traffic volume to be generated by each parcel assessed, or any other reasonable basis as determined by the legislative body. In the case of an assessment to cure bond fund deficiencies pursuant to Section 54710.3, all parcels subject to the assessment may be assumed to benefit equally from the jurisdiction's improved ability to finance special benefit projects through assessments at lower cost, due to the added security provided by the assessment levied pursuant to this chapter.

(2) The annual aggregate amount of the assessment shall not exceed the estimated annual cost of providing the service.

(3) The revenue derived from the assessment shall not be used to pay the cost of any service other than the service for which the assessment was levied.

(b) This section does not limit or prohibit the levy or collection of any other fee, charge, or tax for the provision of services, except that a maintenance district formed pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code may impose an assessment pursuant to this chapter only as an alternative to imposing a property tax for the provision of street lighting services.

SEC. 3. Section 54715 of the Government Code is amended to read:

54715. (a) The legislative body of a local agency may by ordinance or resolution, adopted after notice and public hearing, determine and propose for adoption an annual assessment on each parcel of real property within the jurisdiction of the local agency, except that the governing body shall not impose an assessment upon a federal or state governmental agency or another local agency.

(b) The legislative body may establish zones or areas of benefit within the local agency and may restrict the imposition of the assessment to areas lying within one or more of the zones or areas of benefit established within the local agency.

(c) The benefit assessment shall be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, within the boundaries of the local agency, zone, or area of benefit. Except as provided in subdivision (d) or (e), in the case of a benefit assessment for flood control services, the benefit assessment may be levied on the basis of proportionate storm water runoff from each parcel. In the case of an assessment levied pursuant to Section 54710.3, the assessment may be levied at a uniform rate per parcel.

The assessment may be levied against any parcel, improvement, or use of property to which such services may be made available, whether or not such service is actually used.

(d) Whenever a railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way is included within an area proposed to be assessed, the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way shall be subject to the assessment only if, and to the extent that, it is found that it will benefit from the service, and the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way shall be subject to the same penalties, and the same procedure and sale, in the event of delinquencies, as other parcels in the assessment area. In determining whether or not the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way benefits from the services provided, its use as a right-of-way for a railroad, gas, water, telephone, cable television, electric, or other utility shall be presumed to be permanent.

(e) Proportionate storm water runoff may be used as a measure of benefit on an undeveloped parcel of land pursuant to this section only if, and to the extent that, it is found that it will benefit from the service.

For the purposes of this section, an undeveloped parcel of land means a parcel of rural land in its undeveloped natural state, although the land may be grazed, if otherwise undisturbed, in a manner consistent with the normally accepted grazing land management practices for that geographic area. An undeveloped parcel of land also includes wetlands and marshlands if undisturbed and subject to periodic inundation. For purposes of this section, rural land is land which is outside of an urbanized area, as designated by the most recent federal decennial census of the United States Bureau of the Census.

SEC. 4. Section 54716 of the Government Code is amended to read:

54716. (a) For the first fiscal year in which a benefit assessment is proposed to be imposed pursuant to this chapter, the legislative body shall cause a written report to be prepared and filed with the clerk of the local agency which shall contain all of the following information:

(1) A description of the service proposed to be financed through the revenue derived from the assessment.

(2) A description of each lot or parcel of property proposed to be subject to the benefit assessment. The assessor's parcel number shall be a sufficient description of the parcel. The area proposed to be subject to the benefit assessment may be less than the entire area of the local agency.

(3) The amount of the proposed assessment for each parcel.

(4) The basis and schedule of the assessment.

(5) In the case of an assessment levied pursuant to Section 54710.3, an identification of the assessment districts for which the local agency has assumed responsibility for redemption fund deficiencies and for which it proposes to rely on assessments levied pursuant to this chapter, and a statement of the conditions under which the assessment will actually be levied and collected in any year.

(b) The clerk shall cause notice of the filing of the report and of a time, date, and place of hearing thereon to be published pursuant to Section 6066 and posted in at least three public places within the jurisdiction of the local agency.

(c) With respect to any assessment proposed to be levied pursuant to subdivision (b) of Section 54710 or Section 54710.3, at least 20 days before the date set for hearing of protests, the clerk shall mail, postage prepaid, copies of a notice of the proposed assessment and the time, date, and place of the hearing thereon, to all persons whose names and addresses appear on the last equalized assessment roll for the area proposed to be subject to the benefit assessment or who are known to the clerk if an election held pursuant to Section 54717 would be by the landowners of the area, or to the registered voters residing within the area if an election held pursuant to Section 54717 would be by the registered voters of the area. The failure of the clerk to mail the notice to any property owner or the failure of any property owner to receive the notice shall not affect the validity of any proceedings taken under this chapter. If property assessed by the state under Section 19 of Article XIII of the California Constitution is proposed to be assessed, any notice required by this section shall be mailed to every owner of the property to be assessed at the address thereof shown on the last State Board of Equalization roll transmitted to the county auditor.

(d) At the hearing, the legislative body shall hear and consider all protests. At the conclusion of the hearing, the legislative body may adopt, revise, change, reduce, or modify the proposed assessment. The legislative body shall make a determination upon the assessment as described in the report or as determined at the hearing, and shall, by ordinance or resolution, determine the proposed assessment.

SEC. 5. Section 54717 of the Government Code is amended to read:

54717. (a) Except as provided in subdivision (b), the proposition shall be submitted to the eligible voters within the jurisdiction of the affected local agency, zone, or area of benefit established by the local agency, and shall take effect upon approval by a majority vote of the voters voting on the proposition. If 12 or more registered voters reside within the affected local agency, zone, or area of benefit at the close of the hearing required by Section 54716, and for at least the preceding 90 days, the vote shall be by the registered voters with each voter having one vote. Otherwise, the vote shall be by the landowners with each landowner having one vote for each acre of land or portion of an acre of land that he or she owns within the area. The proposal may take effect without a vote if there are less than 12

registered voters and a petition or other written consent to the levy of the assessment, executed by the owners of at least 60 percent in area of lands within the area of benefit established by the local agency, is filed with the legislative body during the hearing. "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of the land, and its determination of ownership shall be final and conclusive for the purposes of this provision. Ballots for a special election for this purpose may be distributed to qualified electors by mail with return postage prepaid.

(b) In the case of a proposition to levy an assessment for maintenance of streets, roads, or highways, or an assessment levied pursuant to Section 54710.3, the proposition shall be submitted to the voters pursuant to subdivision (a) if written protests to the levy of the assessment are received by the clerk of the agency at or before the hearing held pursuant to Section 54715 from not less than 25 percent of the registered voters residing within the agency, area, or zone of benefit within which the proposed assessment is proposed to be levied and an election held pursuant to this section would be by the registered voters of the area, or from owners of not less than 25 percent of the area in which the benefit assessment is proposed to be levied if an election held pursuant to this section would be by the landowners of the area.

(c) The legislative body may annually thereafter determine the cost of the service which is financed by the assessment and, by ordinance or resolution, determine and impose the assessment.

SEC. 6. Section 54718 of the Government Code is amended to read:

54718. (a) The legislative body may provide for the collection of the assessment in the same manner, and subject to the same penalties and priority of lien as, other charges and taxes fixed and collected by, or on behalf of the local agency, except that if, for the first year the assessment is levied the real property on which the assessment is levied 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 county taxes would become delinquent, the confirmed assessment shall not result in a lien against the real property but shall be transferred to the unsecured roll.

(b) If the assessments are collected by the county, the county may deduct its reasonable costs incurred for the service before remittal of the balance to the local agency's treasury.

(c) In the case of an assessment levied pursuant to Section 54710.3, the legislative body shall provide for the collection of the assessment in any year only if the legislative body determines that the levy is necessary because of a redemption fund deficiency.

SEC. 7. Section 3114.3 is added to the Streets and Highways Code,

to read:

3114.3. If an assessment has been prepaid, in whole or in part, pursuant to Section 8766 or 8766.5, the treasurer shall record an addendum to the notice of assessment recorded pursuant to Section 3114 which states that the recorded assessment against the identified parcel or parcels has been paid in full or in part, and that the associated lien against those parcels has been discharged in whole or in part.

The addendum and its recording has no effect on the authority of the legislative body with respect to any identified parcel by reason of its inclusion in the assessment district or assessment for the work, acquisitions, or improvements, and a statement to that effect shall be included in the addendum recorded pursuant to this section.

SEC. 8. Section 8514 is added to the Streets and Highways Code, to read:

8514. Notwithstanding any other provision of this division, income realized from the investment of money on deposit in a fund or account established pursuant to this division may be used, at the option of the legislative body, to pay all or any portion of any amount required to be rebated to the United States in order that interest on obligations issued pursuant to this division be excluded from gross income for purposes of federal income taxation.

SEC. 9. Section 8570 of the Streets and Highways Code is amended to read:

8570. The legislative body of any city may determine that serial bonds, term bonds, or both, shall be issued as provided in this division to represent and be secured by assessments to pay the cost of any work or improvement 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 authorized by the Street Opening Act of 1903 (Part 1 (commencing with Section 4000) of Division 6) or by the Improvement Act of 1911 (Division 7 (commencing with Section 5000)), or to pay the cost of any other work or improvement charged and assessed upon real property pursuant to any other law. The legislative body may not issue bonds secured by assessments levied pursuant to subdivision (b) of Section 10312 to pay administrative costs.

SEC. 10. Section 8571 of the Streets and Highways Code is amended to read:

8571. If the legislative body determines that bonds shall be issued as provided in this division to represent the expense of any proposed work or improvement, it shall, in the resolution of intention to do the work, do all of the following:

(a) Declare that bonds shall be issued pursuant to Division 10 (commencing with Section 8500) to represent the expenses of the proposed work or improvement.

(b) Specify the rate or maximum rate of interest which the bonds shall bear.

(c) State the determination of the city pursuant to Section 8769.

SEC. 11. Section 8650.1 of the Streets and Highways Code is amended to read:

8650.1. The legislative body, in its discretion, may determine, either (a) in the resolution of intention describing the improvement work, or (b) thereafter in any change proceedings taken under and in accordance with the provisions of the same act under which the resolution of intention was adopted, that the principal amount of the bonds maturing or becoming subject to mandatory prior redemption each year shall be other than an amount equal to an even annual proportion of the aggregate principal of the bonds, and it may determine that the amount of principal maturing or becoming subject to mandatory prior redemption in each year plus the amount of interest payable in that year will be an aggregate amount that is substantially equal each year, except for the moneys falling due on the first maturity or mandatory prior redemption date of the bonds which shall be adjusted to reflect the amount of interest earned from the date when the bonds bear interest to the date when the first interest is payable on the bonds. To the extent that the determination to issue bonds pursuant to Section 8570 includes term bonds, the legislative body shall provide for mandatory prior redemption of those bonds through annual sinking fund installments conforming to the requirements of this section.

Notwithstanding Section 8652, the legislative body may prescribe the form of the bonds and shall fix the date of the bonds. The legislative body may divide the principal amount of any issue into two or more divisions and fix different dates for the payment of bonds of each division. The bonds of one division may be made payable at different times than bonds of any other division.

The legislative body, in its discretion, may determine in like manner to classify assessments into different terms of maturity so that smaller assessments may be made to mature over a shorter period of time and, in that event, the bond declaration in the resolution of intention, or in the change proceedings taken under and in accordance with the provisions of the same act under which the resolution of intention was adopted, in the assessment, and in the notice of recording the assessment may recite that the last installment of bonds shall mature a maximum rather than an exact number of years from the second day of September next succeeding 12 months from their date.

SEC. 12. Section 8651.5 of the Streets and Highways Code is amended to read:

8651.5. Each bond, or any portion of the bond in a fixed amount or any integral multiple of the fixed amount, shall be subject to redemption in advance of its maturity on any interest payment date upon payment to the registered owner of the principal and accrued interest to the date of redemption together with a redemption premium equal to 5 percent of the principal. Prior to issuance of the bonds, the legislative body may provide for a reduction of the redemption premium to an amount equal to not less than 3 percent

of the principal for the first five years of the term of the bonds or to any amount, including zero, after the first five years of the term of the bonds, or both.

SEC. 13. Section 8672 of the Streets and Highways Code is amended to read:

8672. The treasurer or the designated paying agent shall keep a register in his or her office showing the series, number, date, amount, rate of interest, and last known holder of each bond, and the number and amount of each interest coupon paid. The treasurer or agent shall cancel and file each bond and coupon which he or she pays. The register, canceled bonds, and coupons shall be retained for five years beyond the last maturity of the bond issue.

SEC. 14. Section 8680 of the Streets and Highways Code is amended to read:

8680. (a) The unpaid assessments shall be payable in annual installments corresponding in number and proportionate amount to the number of installments and principal amounts of bonds maturing or becoming subject to mandatory prior redemption in each year pursuant to Section 8650.1. An annual proportion of each assessment shall be payable in each fiscal year preceding the date of maturity or mandatory prior redemption date of each of the bonds which have been issued, sufficient to pay the bonds when due. The annual proportion of each assessment coming due in any year, together with the annual interest on the assessment, shall be payable in the same manner and at the same time and in the same installments as the general taxes of the city on real property are payable, and the assessment installments and the annual interest on the assessment shall be payable and become delinquent at the same times and in the same proportionate amounts and, except as provided in subdivision (b), shall bear the same proportionate penalties and interest after delinquency as do the general taxes on real property of the city.

(b) The legislative body may provide, in the resolution of intention to do the work, that a penalty of 2 percent per month of the total amount of the delinquent installment shall be added to the delinquent installment after the close of business on the delinquency date and an additional penalty of 2 percent of the amount of the delinquency shall be added at the beginning of business on the 10th day of each succeeding month until that delinquent installment and all penalties thereon are fully paid. This penalty shall be in lieu of all other penalties assessed by other provisions of law. The treasurer or the designated paying agent shall collect the penalties with, and as a part of, the delinquent installments, or the legislative body may designate another official and another method of collection. All penalties collected shall be deposited in the redemption fund.

SEC. 15. Section 8682 of the Streets and Highways Code is amended to read:

8682. (a) A copy of the order of the legislative body determining the assessments remaining unpaid and upon the security of which bonds are issued shall be filed in the office of the auditor. The auditor

shall keep a record in his or her office showing the several installments of principal and interest on the assessments which are to be collected in each year during the term of the bonds. The auditor shall annually enter in his or her assessment roll on which taxes will next become due, opposite each lot or parcel of land affected in a space marked "public improvement assessment," or by other suitable designation, the several installments of the assessment coming due during the fiscal year covered by the assessment roll, including in each case the interest due on the total unpaid assessments.

(b) The auditor shall also add a maximum of 5 percent of the amount of the installments and of the interest so entered, not to exceed the city treasurer's estimate of the expenses of collection, and in any case not to exceed eight dollars ($8) per lot or parcel per installment, except with the landowner's written consent. The expenses of collection shall include necessary administrative expenses of the city incurred in providing the auditor with current information regarding the ownership or division of the affected lots or parcels of land to ensure the proper entry by the auditor in his or her assessment roll of the several installments of the assessment coming due during the fiscal year covered by the assessment roll and the timely collection of the installments. The percentages, and the amount represented by the installments, when collected shall belong to the city and shall cover the expenses and compensation of the city treasurer incurred in the collection of the assessments, and of the interest and penalties added on to the assessments. No other percentage or amount shall be claimed by the legislative body for the collections.

(c) In the case of an assessment district created prior to January 1, 1988, the amount of collection costs which may be collected pursuant to this section may be the amount which could have been collected pursuant to this section as it read prior to being amended by Chapter 874 of the Statutes of 1986.

SEC. 16. Section 8766.5 of the Streets and Highways Code is amended to read:

8766.5. The owner of assessed land, except land which has been ordered to judicial foreclosure pursuant to Section 8830, may prepay the assessment in part and remove the lien of the assessment in part by paying to the treasurer all of the following:

(a) The amount of any delinquent installment of principal and interest, together with penalties accrued to the date of prepayment.

(b) A portion of the unpaid, nondelinquent principal of the assessment in increments of five thousand dollars ($5,000).

(c) An allowance for redemption premium, calculated by multiplying the amount of the unmatured principal being prepaid by the redemption premium percentage stated in the bonds.

(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 is the next bond interest payment date which is not less than 90 days after the date of prepayment.

(f) A credit for the reserve fund calculated pursuant to Section 8881.

When an assessment has been partially prepaid, the treasurer shall issue a revised auditor's record for that parcel, showing the proportionate reduction in assessment installments. Thereafter, the treasurer shall levy subsequent installments at the reduced rate.

SEC. 17. 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. If the legislative body determines to so declare under this subdivision, the legislative body may provide further security for the assessment bonds by creating an improvement district pursuant to the Benefit Assessment Act of 1982.

(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. 18. Section 8830 of the Streets and Highways Code is amended to read:

8830. (a) As a cumulative remedy, if any assessment or reassessment or installment thereof, or of any interest thereon, together with any penalties, costs, fees, and other charges accruing under applicable taxation provisions are not paid when due, the legislative body may order that the same be collected by an action brought in the superior court to foreclose the lien thereof as provided by this part.

(b) The legislative body may, by resolution adopted prior to issuance of bonds under this division, covenant for the benefit of bondholders to commence and diligently prosecute to completion any foreclosure action regarding delinquent installments of any assessments or reassessments which secure the bonds that are to be issued, or to employ a trustee to do so on behalf of the bondholders. The resolution may specify a deadline for commencement of the foreclosure action and other terms and conditions as the legislative body may determine to be reasonable regarding the foreclosure action.

(c) Except as provided in Section 8836, all installments, interest,

penalties, costs, fees, and other charges that are delinquent at the time of the ordering of a foreclosure action shall be collected in the action. If a lot or parcel of property has not been sold pursuant to judgment in the foreclosure action at the time that subsequent installments and interest become delinquent, the court may include the subsequent installments, interest, penalties, costs, fees, and other charges in the judgment or modified judgment.

SEC. 19. Section 8834 of the Streets and Highways Code is amended to read:

8834. The foreclosure action shall be brought in the name of the city or a trustee employed on behalf of the bondholders pursuant to Section 8830, and may be brought at any time prior to the expiration of four years subsequent to the last maturity of the principal of bonds secured by the assessment or reassessment. The complaint may be brief and include substantially only the following allegations with reference to the assessment or reassessment sought to be collected:

(a) That, on a date stated, the legislative body passed its resolution ordering certain work to be done, without describing the same.

(b) If the assessment was levied pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000)), that work was done pursuant to the resolution.

(c) That an assessment to pay the cost of the work was duly made and was authorized to be collected, but remained unpaid on a stated date.

(d) That certain property (describing it) was assessed or reassessed a stated amount and that bonds upon the security of the assessment or reassessment were duly issued under this division, giving the date or dates of the bonds, their interest rate or rates, and the number of years the last maturity of the bonds were to run, but it is not necessary to state the amount, number, denomination, or other terms of the bonds.

(e) That, on a date stated, a certain sum came due against the described property on the assessment or reassessment and had not been paid and that the legislative body, or a trustee acting on behalf of the bondholders, had ordered the action to foreclose.

SEC. 20. Section 9622 is added to the Streets and Highways Code, to read:

9622. Notwithstanding any other provision of this part, bonds originally issued as variable rate bonds pursuant to Part 6.5 (commencing with Section 8660) may be refunded by the issuance of variable rate bonds issued pursuant to that Part 6.5. For purposes of this section and that Part 6.5 "bonds" includes "refunding bonds."

SEC. 21. Section 10010 of the Streets and Highways Code is amended to read:

10010. "Acquisition", or any of its variants, means and includes one or more of the following:

(a) Any works, improvements, appliances, or facilities authorized to be made, constructed, or acquired under this division and which are in existence and installed in place on or before the date of

adoption of the resolution of intention for the acquisition thereof; any use or capacity rights in any of the foregoing; and any works, improvements, appliances, or facilities acquired or installed pursuant to Sections 10109 to 10111, inclusive. Any work, improvement, appliance, or facility which was not in existence and installed in place on or before that date may be acquired if it was constructed as if it had been constructed under the direction and supervision or under the authority of the municipality.

(b) Electric current, gas, or other illuminating agent for power or lighting service.

(c) Any real property, rights-of-way, easements, or interests in real property, acquired or to be acquired by gift, purchase, or eminent domain, and which are necessary or convenient in connection with the construction or operation of any work or improvement authorized to be acquired or to be made or constructed under this division, except real property, rights-of-way, easements, or interests in real property shown upon a final map filed with or submitted to the legislative body for acceptance and approval pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) and offered for dedication to public use by that map or by any separate offer of dedication.

(d) The payment in full of all amounts necessary to eliminate any fixed special assessment liens previously imposed upon any assessment parcel included in the new assessment district. The amount of the payment shall be included in the new assessment on the parcel. This subdivision is applicable only where the acquisition is incidental to other acquisitions or improvements.

SEC. 22. Section 10109 of the Streets and Highways Code is amended to read:

10109. Whenever the improvement or acquisition includes the acquiring or the installation of works, appliances, or improvements authorized by this division, and the works, appliances, or improvements are, or may be, under the ownership, management, or control of any public agency other than the city making the acquisition or ordering the work done, or of a regulated public utility, the works, appliances, or improvements may be acquired or installed under the proceedings specified in this division. For purposes of this section and Sections 10110 and 10111, "regulated public utility" includes a cable television company.

SEC. 23. Section 10427 of the Streets and Highways Code is amended to read:

10427. After completion of the improvement and the payment of all claims from the improvement fund, the legislative body shall determine the amount of the surplus, if any, remaining in the improvement fund by reason of the assessment and any supplemental assessment levied for the improvement. The surplus shall be used, in amounts determined by the legislative body, for one or more of the following purposes:

(a) For transfer to the general fund of the city, provided that the amount transferred shall not exceed the lesser of one thousand dollars ($1,000) or 5 percent of the total amount expended from the improvement fund.

(b) As a credit upon the assessment and any supplemental assessment, in the manner provided in Section 10427.1.

(c) For the maintenance of the improvement.

(d) To call bonds, thereby reducing outstanding assessments and subsequent assessment installments. In the event that the legislative body determines to use all or some portion of the surplus to call bonds prior to maturity, the treasurer shall do each of the following:

(1) Cause the special reserve fund, if any, to be reduced as necessary pursuant to Section 8887 to assure that the bonds will not become subject to federal income taxation.

(2) Cause any assessment previously paid in cash to receive a credit in cash pursuant to subdivision (d) of Section 10427.1 for the proportionate share of the surplus as determined pursuant to subdivision (a) of Section 10427.1.

(3) Cause the preparation of new auditor's records to reflect the adjusted principal amount of the remaining assessment. All subsequent assessment installments shall be based upon the adjusted principal amount of the assessment as reflected in the revised auditor's record.

SEC. 24. Section 10427.1 of the Streets and Highways Code is amended to read:

10427.1. (a) If there is no supplemental assessment, the entire amount of the surplus shall be applied as a credit to the assessment or, as an alternative, any portion of the surplus may be used to call outstanding bonds. If any supplemental assessment has been levied, any portion of the surplus shall be applied as a credit to the assessment or supplemental assessment, or both, or, as an alternative, may be used to call outstanding bonds, as the legislative body may determine. Any credit upon the assessment or any supplemental assessment shall be made in the proportion which each individual assessment, or installment of principal thereof, bears to the total of all individual assessments in the assessment or supplemental assessments upon which the surplus is to be credited. Any bonds called pursuant to this section shall be selected in accordance with Section 8768.

(b) Where an individual assessment, or any installment of the principal thereof, has been paid in cash after January 1, 1991, the credit shall be returned in cash to the person or persons owning the property for which the assessment or installment has been paid upon their furnishing satisfactory evidence of payment.

(c) Where all or any part of an individual assessment remains unpaid, if the individual assessment is not payable in installments, the credit shall be applied in its entirety upon the individual assessment.

(d) Where all or any part of an individual assessment remains unpaid and is payable in installments, the amount apportioned to

each parcel shall be credited against the next installment or installments unpaid upon it after the two-year period specified in this subdivision. When any of the surplus is to be applied as a credit upon the assessment, payable in installments, no credit may be paid or credited as provided in this section until after a period of two years from the date of receipt of proceeds of the sale of bonds by the legal entity conducting the proceedings.

(e) There shall be transferred to the general fund of the city (1) any portion of the surplus which has not been paid to or claimed by the persons entitled thereto within four years from the date of recordation of the assessment and any supplemental assessment or, if bonds have been issued, within four years after the due date of the last installment upon the bonds or of the last principal coupon attached thereto, and (2) any interest earned from the investment of any moneys constituting all or any part of the surplus when the surplus attributable to an individual remaining assessment is fifty dollars ($50) or less. If the surplus attributable to an individual remaining assessment is greater than fifty dollars ($50), any interest earned thereon, less administrative cost of investing and crediting, shall be applied as a credit to the assessment.

SEC. 25. Section 22569 of the Streets and Highways Code is amended to read:

22569. The estimate of the costs of the improvements for the fiscal year shall contain estimates for all of the following:

(a) The total costs for improvements to be made that year, being the total costs of constructing or installing all proposed improvements and of maintaining and servicing all existing and proposed improvements, including all incidental expenses. This may include a reserve which shall not exceed the estimated costs of maintenance and servicing to December 10 of the fiscal year, or whenever the city expects to receive its apportionment of special assessments and tax collections from the county, whichever is earlier.

(b) The amount of any surplus or deficit in the improvement fund to be carried over from a previous fiscal year.

(c) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(d) The amount, if any, of the annual installment for the fiscal year where the legislative body has ordered an assessment for the estimated cost of any improvements to be levied and collected in annual installments.

(e) The net amount to be assessed upon assessable lands within the assessment district, being the total improvement costs, as referred to in subdivision (a), increased or decreased, as the case may be, by any of the amounts referred to in subdivision (b), (c), or (d).

CHAPTER 447

An act to amend Section 21464 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 30, 1990 Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 21464 of the Vehicle Code is amended to read:

21464. (a) No person shall without lawful authority deface, injure, attach any material or substance to, knock down, or remove, nor shall any person shoot at, any official traffic control device, traffic guidepost, traffic signpost, or historical marker placed or erected as authorized or required by law, nor shall any person without such authority deface, injure, attach any material or substance to, or remove, nor shall any person shoot at, any inscription, shield, or insignia on any such device, guide, or marker.

(b) No person shall use, nor shall any vehicle, other than an authorized emergency vehicle, be equipped with, any device capable of sending a signal that interrupts or changes the sequence patterns of an official traffic control signal unless that device or use is authorized by the Department of Transportation pursuant to Section 21350 or by local authorities pursuant to Section 21351.

(c) Any willful violation of subdivision (a) or (b) which results in injury to, or the death of, a person is punishable by imprisonment in the state prison, or imprisonment in a county jail for a period of not more than six months, and by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(d) Any willful violation of subdivision (a) or (b) which does not result in injury to, or the death of, a person is punishable by a fine of not more than three thousand dollars ($3,000).

(e) The court shall allow the offender to perform community service designated by the court in lieu of all or part of any fine imposed under this section.

CHAPTER 448

An act to add Section 58806 to the Education Code, relating to specialized secondary schools, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 58806 is added to the Education Code, to read:

58806. A specialized secondary school operated by a county superintendent of schools under this chapter shall be considered a school district by the Superintendent of Public Instruction for purposes of receiving funds pursuant to Sections 42239 and 42239.5 of the Education Code. If a specialized secondary school counts a pupil in its summer school enrollment, the school shall notify the pupil's school district of original attendance, and that school district shall not count that pupil in its summer school enrollment.

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 this act may provide updated levels of state funding for specialized secondary schools commencing with the 1990–91 fiscal year, it is necessary that this act go into immediate effect.

CHAPTER 449

An act to add Sections 16112.5 and 16112.7 to the Government Code, relating to redevelopment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990 Filed with Secretary of State July 31, 1990]

I am deleting the $75,000 General Fund appropriation contained in Section 1 of Assembly Bill No. 160.

This appropriation would fund a study on the use of eminent domain by redevelopment agencies I am not convinced that this study is of sufficient priority to warrant funding at this time, given the critical condition of the General Fund. Moreover, it would be appropriate that any funding for this study be considered in the regular budget development process where its merits can be evaluated against those of other worthwhile projects

With this deletion, I approve Assembly Bill No 160

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. (a) The Legislative Analyst shall conduct a study on the use of eminent domain by redevelopment agencies and provide a report of the study to the Legislature on or before April 1, 1992.

(b) The report shall include all of the following:

(1) An examination of the evolution of the law on eminent domain as it applies to redevelopment agencies.

(2) A description of how the use of eminent domain by redevelopment agencies differs from the use of eminent domain by other government agencies.

(3) An inventory and summary of reported court cases on the use of eminent domain by redevelopment agencies.

(4) A survey of a representative sample of redevelopment agencies and a summary of the purposes for which they condemn property, how they appraise property, how they compensate property owners, and how they carry out relocation programs. The sample shall be representative of those redevelopment agencies which use eminent domain, considering their size, geographic location, and the types of redevelopment projects that they undertake.

(5) An examination and documentation of alleged abuses of eminent domain statutes by redevelopment agencies.

(6) If necessary, recommended changes to state statutes.

(c) In conducting the study, the Legislative Analyst shall consult with knowledgeable persons and groups, including, but not limited to, county grand juries, legal experts, academic researchers, and public officials. To the extent feasible, the Legislative Analyst shall supplement this research with material from other existing studies, records, and documents.

(d) The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the Legislative Analyst for the purposes of this section.

SEC. 2. Section 16112.5 is added to the Government Code, to read:

16112.5. Notwithstanding Section 16112, the Controller shall make payments to each redevelopment agency for the 1990–91 fiscal year and all subsequent fiscal years thereafter, pursuant to Sections 16111 and 16112.7, in two installments. The Controller shall make the first payment on or before December 31 and the second payment on July 1.

SEC. 3. Section 16112.7 is added to the Government Code, to read:

16112.7. Notwithstanding Sections 16111 and 16112, redevelopment agencies shall receive state subventions for the 1990–91 fiscal year in accordance with the following procedures:

(a) The Department of Finance shall calculate an amount equal to 25 percent of the total amount all redevelopment agencies would

otherwise be entitled to receive in the 1990–91 fiscal year pursuant to paragraph (3) of subdivision (c) of Section 16111.

(b) On or before December 31, 1990, for the 1990–91 fiscal year, the Controller shall allocate the amount calculated pursuant to subdivision (a) to each redevelopment agency in accordance with the percentage entitlement of the total amount that would otherwise be allocated to that agency pursuant to paragraph (3) of subdivision (c) of Section 16111.

(c) The Department of Finance shall calculate an amount equal to 50 percent of the total amount all redevelopment agencies would otherwise be entitled to receive in the 1990–91 fiscal year pursuant to paragraph (3) of subdivision (c) of Section 16111.

(d) On July 1, 1991, the Controller shall allocate the amount calculated pursuant to subdivision (c) to each redevelopment agency in accordance with the percentage entitlement of the total amount that would otherwise be allocated to that agency pursuant to paragraph (3) of subdivision (c) of Section 16111.

(e) Subdivisions (a) to (d), inclusive, shall not apply to any redevelopment agency which has stated in bond instruments and supporting documents that the amounts received pursuant to Section 16111 are pledged as security for payment of the principal and interest of those bonds and that the bond reserve account is insufficient to cover the bond payments. Any redevelopment agency within this subdivision shall, for the 1990–91 fiscal year, instead receive two payments allocated by the Controller, with each payment equal to 50 percent of the amount that would otherwise be allocated to that agency pursuant to paragraph (3) of subdivision (c) of Section 16111. The first payment pursuant to this subdivision shall be made on or before December 31, 1990, and the second payment shall be made on July 1, 1991. No redevelopment agency shall, on or after the effective date of this section, pledge as security for payment of the principal and interest of bonds, the amounts received pursuant to Section 16111.

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 address serious problems regarding the operations and funding of redevelopment agencies, it is necessary that this act take immediate effect.

CHAPTER 450

An act to amend Sections 1352, 1501, 1503, 1513, 1513.5, 1514, 1515, 1516, 1518, 1519, 1520, 1521, 1531, 1532, and 1582 of, and to add Section 1532.1 to, the Code of Civil Procedure, relating to unclaimed property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 1352 of the Code of Civil Procedure is amended to read:

1352. (a) Whenever unclaimed money or other property is deposited in the State Treasury under this title, and, except as otherwise provided by law, whenever there is in the possession of the state or its officers any money or other property which is held for third persons or the title to which has vested in the state subject to the rights of third persons, and the period during which it may be claimed by a person entitled thereto has not terminated, the period and person being prescribed by law, if the value of the money or other property to which the claimant is entitled is less than sixty thousand dollars ($60,000), any such person may present his or her claim for it to the Controller.

The claim shall be made in the form prescribed by the Controller, which shall set forth the information required by Section 1355 or any other information that the Controller may deem necessary to establish right or title to the money or other property in the claimant.

(b) Property assigned or distributed to a name distributee may be claimed by the distributee himself or herself or his or her legal guardian or conservator, as provided in subdivision (a) regardless of the amount. This subdivision does not apply to the heirs or estate of a distributee, or to property distributed to the state for lack of known heirs.

(c) Any person aggrieved by a decision of the Controller may commence an action, naming the Controller as a defendant, to establish his or her claim in the superior court in any county or city and county in which the Attorney General has an office pursuant to Section 1541.

SEC. 2. Section 1501 of the Code of Civil Procedure is amended to read:

1501. As used in this chapter, unless the context otherwise requires:

(a) "Apparent owner" means the person who appears from the records of the holder to be entitled to property held by the holder.

(b) "Banking organization" means any national or state bank, trust company, banking company, land bank, savings bank,

safe-deposit company, private banker, or any similar organization.

(c) "Business association" means any private corporation, joint stock company, business trust, partnership, or any association for business purposes of two or more individuals, whether or not for profit, including, but not by way of limitation, a banking organization, financial organization, life insurance corporation, and utility.

(d) "Financial organization" means any federal or state savings and loan association, building and loan association, credit union, investment company, or any similar organization.

(e) "Holder" means any person in possession of property subject to this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.

(f) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments, and annuities.

(g) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, or creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this chapter, or his or her legal representative.

(h) "Person" means any individual, business association, government or governmental subdivision or agency, two or more persons having a joint or common interest, or any other legal or commercial entity, whether that person is acting in his or her own right or in a representative or fiduciary capacity.

(i) "Employee benefit plan distribution" means any money, life insurance, endowment or annuity policy or proceeds thereof, securities or other intangible property, or any tangible property, distributable to a participant, former participant, or the beneficiary or estate or heirs of a participant or former participant or beneficiary, from a trust or custodial fund established under a plan to provide health and welfare, pension, vacation, severance, retirement benefit, death benefit, stock purchase, profit sharing, employee savings, supplemental unemployment insurance benefits or similar benefits, or which is established under a plan by a business association functioning as or in conjunction with a labor union which receives for distribution residuals on behalf of employees working under collective-bargaining agreements.

(j) "Residuals" means payments pursuant to a collective bargaining agreement of additional compensation for domestic and foreign uses of recorded materials.

SEC. 3. Section 1503 of the Code of Civil Procedure is amended to read:

1503. (a) As used in this section:

(1) "Old act" means this chapter as it existed prior to January 1, 1969.

(2) "New act" means this chapter as it exists on and after January

1, 1969.

(3) "Property not subject to the old act" means property that was not presumed abandoned under the old act and would never have been presumed abandoned under the old act had the old act continued in existence on and after January 1, 1969, without change.

(b) The holder is not required to file a report concerning, or to pay or deliver to the Controller, any property not subject to the old act if an action by the owner against the holder to recover that property was barred by an applicable statute of limitations prior to January 1, 1969.

(c) The holder is not required to file a report concerning, or to pay or deliver to the Controller, any property not subject to the old act, or any property that was not required to be reported under the old act, unless on January 1, 1969, the property has been held by the holder for less than the escheat period. "Escheat period" means the period referred to in Sections 1513 to 1521, inclusive, of the new act, whichever is applicable to the particular property.

SEC. 4. Section 1513 of the Code of Civil Procedure is amended to read:

1513. Subject to Sections 1510 and 1511, the following property held or owing by a business association escheats to this state:

(a) Except as provided in subdivision (f), any demand, savings, or matured time deposit, or account subject to a negotiable order of withdrawal, made with a banking organization, together with any interest or dividends thereon, excluding, from demand deposits and accounts subject to a negotiable order of withdrawal only, any reasonable service charges which may lawfully be withheld and which do not (where made in this state) exceed those set forth in schedules filed by the banking organization from time to time with the Controller, when the owner, for more than three years, has not done any of the following:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest.

(2) Corresponded in writing with the banking organization concerning the deposit.

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization.

No banking organization may discontinue any interest or dividends on any savings deposit because of the inactivity contemplated by this section.

(b) Except as provided in subdivision (f), any demand, savings, or matured time deposit, or matured investment certificate, or account subject to a negotiable order of withdrawal, or other interest in a financial organization or any deposit made therewith, and any interest or dividends thereon, excluding, from demand deposits and accounts subject to a negotiable order of withdrawal only, any reasonable service charges which may lawfully be withheld and

which do not (where made in this state) exceed those set forth in schedules filed by the financial organization from time to time with the Controller, when the owner, for more than three years, has not done any of the following:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends.

(2) Corresponded in writing with the financial organization concerning the funds or deposit.

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum or other record on file with the financial organization.

No financial organization may discontinue any interest or dividends on any funds paid toward purchase of shares or other interest, or on any deposit, because of the inactivity contemplated by this section.

(c) Any sum payable on a travelers check issued by a business association that has been outstanding for more than 15 years from the date of its issuance, when the owner, for more than 15 years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association.

(d) Any sum payable on any other written instrument on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, any draft or certified check, that has been outstanding for more than three years from the date it was payable, or from the date of its issuance if payable on demand, when the owner, for more than three years, has not corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization.

(e) Any sum payable on a money order issued by a business association (including a banking or financial organization), that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, when the owner, for more than seven years, has not corresponded in writing with the business association, banking, or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the business association.

(f) Any funds held by a business association in an individual retirement account or under a retirement plan for self-employed individuals or similar account or plan established pursuant to the internal revenue laws of the United States or of this state, when the owner, for more than three years after the funds become payable or distributable, has not done any of the following:

(1) Increased or decreased the principal.

(2) Accepted payment of principal or income.

(3) Corresponded in writing concerning the property or

otherwise indicated an interest.

These funds are not payable or distributable within the meaning of this subdivision unless, under the terms of the account or plan, distribution of all or a part of the funds would then be mandatory.

(g) For purposes of this section "service charges" means service charges imposed because of the inactivity contemplated by this section.

SEC. 5. Section 1513.5 of the Code of Civil Procedure is amended to read:

1513.5. (a) Except as provided in subdivision (c), if the holder has in its records an address for the apparent owner, which the holder's records do not disclose to be inaccurate, every banking or financial organization shall make reasonable efforts to notify by mail any customer that the customer's deposit, account, shares, or other interest in the banking or financial organization will escheat to the state pursuant to subdivision (a) or (b) of Section 1513. The notice shall be given within two and one-half years after the date of last activity by, or communication with, the owner with respect to the account, deposit, shares, or other interest, as shown on the record of the financial organization.

(b) The notice required by this section shall specify the time that the deposit, account, shares, or other interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, account, shares, or other interest. It shall also include a form, as prescribed by the Controller, by which the customer may declare an intention to maintain the deposit, account, shares, or other interest. If that form is filled out, signed by the customer, and returned to the banking or financial organization, it shall satisfy the requirement of paragraph (3) of subdivision (a) or paragraph (3) of subdivision (b) of Section 1513. The banking or financial organization may impose a service charge on the deposit, account, shares, or other interest for this notice in an amount not to exceed the administrative cost of mailing the notice and form and in no case to exceed two dollars ($2).

(c) Notice as provided by subdivisions (a) and (b) shall not be required for deposits, accounts, shares, or other interests of less than twenty-five dollars ($25) and no service charge may be made for notice on these items.

SEC. 6. Section 1514 of the Code of Civil Procedure is amended to read:

1514. The contents of any safe deposit box or any other safekeeping repository, held in this state by a business association, escheat to this state if unclaimed by the owner for more than three years from the date on which the lease or rental period on the box or other repository expired, or from the date of termination of any agreement because of which the box or other repository was furnished to the owner without cost, whichever last occurs.

SEC. 7. Section 1515 of the Code of Civil Procedure is amended to read:

1515. (a) Subject to Section 1510, funds held or owing by a life insurance corporation under any life or endowment insurance policy or annuity contract which has matured or terminated escheat to this state if unclaimed and unpaid for more than three years after the funds became due and payable as established from the records of the corporation.

(b) If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation. This presumption is a presumption affecting the burden of proof.

(c) A life insurance policy not matured by actual proof of the death of the insured according to the records of the corporation is deemed to be matured and the proceeds due and payable if:

(1) The insured has attained, or would have attained if he were living, the limiting age under the mortality table on which the reserve is based.

(2) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in paragraph (1).

(3) Neither the insured nor any other person appearing to have an interest in the policy has, within the preceding five years, according to the records of the corporation (i) assigned, readjusted, or paid premiums on the policy, (ii) subjected the policy to loan, or (iii) corresponded in writing with the life insurance corporation concerning the policy.

(d) Any funds otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

SEC. 8. Section 1516 of the Code of Civil Procedure is amended to read:

1516. (a) Subject to Section 1510, any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to its shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within three years after the date prescribed for payment or delivery, escheats to this state.

(b) Subject to Section 1510, any intangible interest in a business association, as evidenced by the stock records or membership records of the association, escheats to this state if (1) the interest in the association is owned by a person who for more than three years has neither claimed a dividend or other sum referred to in subdivision (a) nor corresponded in writing with the association or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association, and (2) the association does

not know the location of the owner at the end of the three-year period. With respect to the interest, the business association shall be deemed the holder.

(c) Subject to Section 1510, any dividends or other distributions held for or owing to a person at the time the stock or other security to which they attach escheats to this state also escheat to this state as of the same time.

SEC. 9. Section 1518 of the Code of Civil Procedure is amended to read:

1518. (a) All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, and the income or increment on such tangible or intangible property, held in a fiduciary capacity for the benefit of another person escheats to this state if after it becomes payable or distributable, the owner has not, within a period of three years, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

(b) Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established pursuant to the internal revenue laws of the United States or of this state are not payable or distributable within the meaning of subdivision (a) unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

(c) For the purpose of this section, when a person holds property as an agent for a business association, he or she is deemed to hold the property in a fiduciary capacity for the business association alone, unless the agreement between him or her and the business association clearly provides the contrary. For the purposes of this chapter, if a person holds property in a fiduciary capacity for a business association alone, he or she is the holder of the property only insofar as the interest of the business association in the property is concerned and the association is deemed to be the holder of the property insofar as the interest of any other person in the property is concerned.

SEC. 10. Section 1519 of the Code of Civil Procedure is amended to read:

1519. All tangible personal property located in this state, and, subject to Section 1510, all intangible personal property, held for the owner by any government or governmental subdivision or agency, that has remained unclaimed by the owner for more than three years escheats to this state.

SEC. 11. Section 1520 of the Code of Civil Procedure is amended to read:

1520. All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, except property of the classes mentioned in Sections 1511, 1513, 1514, 1515, 1516, 1517, 1518, 1519, and 1521, including any income or increment

thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable escheats to this state.

For purposes of this section, "lawful charges" means charges which are specifically authorized by statute, other than the Unclaimed Property Law, or by a valid, enforceable contract.

SEC. 12. Section 1521 of the Code of Civil Procedure is amended to read:

1521. (a) Except as provided in subdivision (b), and subject to Section 1510, all employee benefit plan distributions and any income or other increment thereon escheats to the state if the owner has not, within three years after it becomes payable or distributable, accepted the distribution, corresponded in writing concerning the distribution, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary of the trust or custodial fund or administrator of the plan under which the trust or fund is established. As used in this section, "fiduciary" means any person exercising any power, authority, or responsibility of management or disposition with respect to any money or other property of a retirement system or plan, and "administrator" means the person specifically so designated by the plan, trust agreement, contract, or other instrument under which the retirement system or plan is operated, or if none is designated, the employer.

(b) Except as provided in subdivision (c), an employee benefit plan distribution and any income or other increment thereon shall not escheat to this state if, at the time the distribution shall become payable to a participant in an employee benefit plan, the plan contains a provision for forfeiture or expressly authorizes the administrator to declare a forfeiture of a distribution to a beneficiary thereof who cannot be found after a period of time specified in the plan, and the trust or fund established under the plan has not terminated prior to the date on which the distribution would become forfeitable in accordance with the provision.

(c) A participant entitled to an employee benefit plan distribution in the form of residuals shall be relieved from a forfeiture declared under subdivision (b) upon the making of a claim therefor.

SEC. 13. Section 1531 of the Code of Civil Procedure is amended to read:

1531. (a) Within one year after payment or delivery of escheated property as required by Section 1532, the Controller shall cause a notice to be published, in a newspaper of general circulation which the Controller determines is most likely to give notice to the apparent owner of the property. The Controller need not publish any name the publication of which is not likely to give notice to the apparent owner.

(b) Each published notice shall be entitled "notice of names of persons appearing to be owners of unclaimed property," and shall contain the names in alphabetical order.

(c) Each published notice shall also contain a statement that information concerning the amount or description of the property may be obtained by any persons possessing an interest in the property by addressing any inquiry to the Controller.

(d) The Controller is not required to publish in such notice any item of less than fifty dollars ($50) unless the Controller deems the publication to be in the public interest.

(e) Within 180 days after payment or delivery of escheated property as required by Section 1532, the Controller shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of twenty-five dollars ($25) or more escheated under this chapter.

(f) This section is not applicable to sums payable on travelers checks, money orders, and similar written instruments that escheat under subdivision (c), (d), or (e) of Section 1513.

SEC. 14. Section 1532 of the Code of Civil Procedure is amended to read:

1532. (a) Every person filing a report as provided by Section 1530 shall pay or deliver to the Controller all escheated property specified in the report at the same time the report is filed.

(b) The holder of any interest under subdivision (b) of Section 1516 shall deliver a duplicate certificate to the Controller. Upon delivery of a duplicate certificate to the Controller, the holder and any transfer agent, registrar or other person acting for or on behalf of the holder in executing or delivering the duplicate certificate shall be relieved from all liability of every kind to any person including, but not limited to, any person acquiring the original certificate or the duplicate of the certificate issued to the Controller for any losses or damages resulting to that person by the issuance and delivery to the Controller of such duplicate certificate.

(c) Payment of any intangible property to the Controller shall be made at the office of the Controller in Sacramento or at such other location as the Controller by regulation may designate. Except as otherwise agreed by the Controller and the holder, tangible personal property shall be delivered to the Controller at the place where it is held.

SEC. 15. Section 1532.1 is added to the Code of Civil Procedure, to read:

1532.1. Notwithstanding Sections 1531 and 1532, property escheating to the state pursuant to Section 1514 shall not be paid or delivered to the state until such time as the holder is requested to do so by the Controller. Within 180 days from the final date for filing a report of the property as required by Section 1530, the Controller shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of twenty-five dollars ($25) or more. Within 180 days after receipt of property as provided by this section, the Controller shall cause a notice to be published as provided in Section 1531.

SEC. 16. Section 1582 of the Code of Civil Procedure is amended

to read:

1582. No agreement to locate, deliver, recover, or assist in the recovery of property reported under Section 1530, entered into between the date a report is filed under subdivision (d) of Section 1530 and the date of publication of notice under Section 1531 is valid. Such an agreement made after publication of notice is valid if the fee or compensation agreed upon is not in excess of 10 percent of the recoverable property and the agreement is in writing and signed by the owner after disclosure in the agreement of the nature and value of the property and the name and address of the person or entity in possession of the property. Nothing in this section shall be construed to prevent an owner from asserting, at any time, that any agreement to locate property is based upon an excessive or unjust consideration.

Notwithstanding any other provision of law, records of the Controller's office pertaining to unclaimed property are not available for public inspection or copying until after publication of notice of the property or, if publication of notice of the property is not required, until one year after delivery of the property to the Controller.

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 to ensure that the Controller may continue to administer the unclaimed property program in an efficient manner for the benefit of the residents of this state, it is necessary that this act take effect immediately.

CHAPTER 451

An act to add Section 1777.8 to the Labor Code, relating to labor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990 Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 1777.8 is added to the Labor Code, to read:

1777.8. The Director of Industrial Relations may promulgate regulations to assess fees upon sponsors or participants of the apprenticeship programs (Chapter 4 (commencing with Section 3070) of Division 3), or both, to support the administration of the apprenticeship programs.

The director may, in his or her discretion, use these fees to provide funding for those apprenticeship programs which he or she deems appropriate in the event of unanticipated decreases in General Fund support.

SEC. 2. It is the intent of the Legislature, in enacting this act, to provide the Director of Industrial Relations with the additional flexibility necessary to provide funding for the apprenticeship programs under his or her jurisdiction.

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

In order for this act to become operative as early as possible in the 1990–91 fiscal year, to facilitate the orderly administration of the apprenticeship programs, it is necessary that this act take effect immediately.

CHAPTER 452

An act to amend Sections 17024.5, 17052.12, 17053.1, 17062, 17076, 17095, 17149, 17151, 17157, 17224, 17250, 17560, 17561, 17564, 18180, 18410.5, 18681, 18681.1, 18689, 23051.5, 23456, 23609, 23732, 23735, 23802, 24343.5, 24344, 24344.5, 24402, 24422.3, 24457, 24521, 24533, 24562, 24580, 24592, 24601, 24652, 24667, 24673.2, 24681, 24692, 24990.5, 24993, 25901c, and 25931 of, to add Sections 17008.5, 17020.13, 18685, 23038.5, 25935, and 25940 to, to repeal and add Sections 17563, 24365, 24368.1, 24685, 24941, 24950 and 24951 of, and to repeal Sections 17092, 17094, 17154, 17279, 18684, 18684.4, 18685.07, 18698.5, 18699, 24274, 24366, 24367, 24368, 25934, and 25934.4 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990]

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

SECTION 1. Section 17008.5 is added to the Revenue and Taxation Code, to read:

17008.5. The provisions of Section 7704 of the Internal Revenue Code, relating to certain publicly traded partnerships treated as corporations, shall apply.

SEC. 1.5. Section 17020.13 is added to the Revenue and Taxation Code, to read:

17020.13. The provisions of Section 7701(k) of the Internal Revenue Code, relating to treatment of certain amounts paid to charity, shall apply.

SEC. 2. 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, and on or before December 31, 1988	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990	January 1, 1990

(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 is operative on or after the specified date for that taxable year shall also be operative on the same date for purposes of this part.

(B) Any provision of the Internal Revenue Code which is inoperative on or after the specified date for that taxable year shall also be inoperative on the same date for purposes of this part.

(5) Unless otherwise specifically provided, for federal laws

enacted on or after January 1, 1987, and on or before the specified date for the taxable year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part shall be applicable to the same taxable years as the incorporated provisions.

(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, except as provided in Section 17142.

(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) When applying any section of the Internal Revenue Code for purposes of this part—

(1) References to "adjusted gross income" shall mean the amount computed in accordance with Section 17072, except as provided in paragraph (2).

(2) References to "adjusted gross income" for purposes of computing limitations based upon adjusted gross income, shall mean the amount required to be shown as adjusted gross income on the federal tax return for the same taxable year.

(3) References to "chapter" shall mean Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code.

(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. 3. Section 17052.12 of the Revenue and Taxation Code is amended to read:

17052.12. For taxable years beginning on or after January 1, 1987, and before January 1, 1993, 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) (1) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "8 percent."

(2) Section 41(a)(2) of the Internal Revenue Code, relating to basic research payments, shall not apply.

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

(c) 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.

(d) In the case where the credit allowed under this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(e) (1) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

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

(f) (1) In the case of a taxpayer to whom paragraph (2) of subdivision (g) does not apply, the following rules shall apply:

(A) 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 after December 31, 1987, bears to the total number of days in that taxable year.

(B) 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 taxable year before January 1, 1993, bears to the total number of days in that taxable year.

(2) (A) In the case of a taxpayer to whom paragraph (2) of subdivision (g) applies, subparagraph (B) shall apply.

(B) In the case of any taxable year which begins before January 1, 1993, and ends after December 31, 1992, the base amount with respect to that taxable year shall be the amount which bears the same ratio to the base amount for that year (determined without regard to this subparagraph) as the number of days in that taxable year before January 1, 1993, bears to the total number of days in that taxable year.

(g) (1) Except as provided in paragraph (2), the following rules, in lieu of Section 41(c) of the Internal Revenue Code, shall apply for purposes of this part:

(A) The term "base amount" means the average of the qualified research expenses for each year in the "base period."

(B) The term "base period" means the three taxable years immediately preceding the taxable year for which the determination is being made (hereafter in this subdivision referred to as the "determination year").

(C) In no event shall the "base amount" be less than 50 percent of the qualified research expenses for the determination year.

(2) In the case of a taxpayer described in Section 41 (c) (3) (B) of the Internal Revenue Code, relating to startup companies, Section 41 (c) of the Internal Revenue Code shall apply, but only to the first taxable year for which a credit is claimed under this section and the number of taxable years immediately following that taxable year that are necessary in order for the taxpayer to have three taxable years beginning after December 31, 1987, in which the taxpayer had both gross receipts and qualified research expenses.

(h) This section shall remain in effect only until December 1, 1993, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (d), until the credit has been exhausted.

SEC. 3.5. Section 17053.1 of the Revenue and Taxation Code, as amended by Chapter 30 of the Statutes of 1990, is amended to read:

17053.1. (a) For taxable years beginning on or after January 1, 1989, and before January 1, 1996, there shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039) an amount equal to the amount determined in subdivision (b).

(b) An employee in a non-employer-sponsored vanpool program shall be allowed a credit in an amount equal to 40 percent of all vanpool subscription costs, for which receipts are available. In the case of a husband and wife, each shall be allowed a credit equal to 40 percent of their individual vanpool subscription costs. The credit allowed by this subdivision shall not exceed four hundred eighty dollars ($480), applied separately to a husband and wife.

(c) For purposes of this section:

(1) "Employer" means any individual for whom or entity for which services are performed by employees.

(2) "Employee" means an individual who performs service for an employer for at least 10 hours per week for remuneration, and who vanpools to and from work at least three days a week or 15 days per month for at least six months of the year.

(3) "Non-employer-sponsored vanpool program" means a program under which vehicles and related equipment and services are made available for use by employers and employees for purposes of commuting to and from work and which is administered and operated by an individual or organization, including a governmental agency, for the commuting purposes of other employers and employees who are not employees of that individual or organization.

(4) "Vanpool" means a vehicle with a seating arrangement designed to carry 7 to 15 adults, including the driver, and in which an average of seven or more persons commute on a daily basis to and from work.

(5) "Vanpool subscription costs" includes, but is not limited to, vehicle lease payments, repairs, maintenance, fuel, and insurance.

(6) An employee, within the meaning of paragraph (2), whose employer is not subject to tax under this part shall be deemed to be an employee in a non-employer-sponsored vanpool program.

(d) In the case where the credit allowed by this section exceeds

the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the credit has been used.

(e) In the case of a husband and wife who file separate returns where both qualify for the credit, each shall claim his or her allowable credit, or, if only one is qualified, the credit may be taken by either or equally divided between them.

(f) This section shall remain in effect only until December 1, 1996, and as of that date is repealed.

SEC. 3.7. 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 or 17048, before reduction for any credits against the tax.

(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, before reduction for any credits against the tax.

(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 for the entire year multiplied by the ratio of California adjusted gross income (as modified for purposes of this chapter) to total adjusted gross income from all sources (as modified for purposes of this chapter). For purposes of computing the tax under subparagraph (A) and gross income from all sources, the net operating loss deduction provided in Section 56(d) of the Internal Revenue Code shall be computed as if the taxpayer were a resident for all prior years.

(C) For purposes of this section, the term "California adjusted gross income" includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, only those items of adjusted gross income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

(4) (A) If there was a deferral of preference tax under former

Section 17064.8 for any taxable year beginning before January 1, 1987, and the amount of the deferred tax has not been paid for any taxable year beginning before January 1, 1987, the amount of the net operating loss carryovers which may be carried to taxable years beginning after December 31, 1986, for purposes of this chapter, shall be reduced by the amount of the tax preferences attributable to the deferred tax which has not been paid.

(B) In the case of a net operating loss allowed to be carried forward under subdivision (d) of Section 17276, subparagraph (A) shall apply to the extent that such a loss would have resulted in a deferred tax under prior law.

(5) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not be applicable.

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

(7) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

SEC. 4. Section 17076 of the Revenue and Taxation Code is amended 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. 4.5. Section 17092 of the Revenue and Taxation Code is repealed.

SEC. 4.7. Section 17094 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 17095 of the Revenue and Taxation Code is amended to read:

17095. Section 203 of Public Law 101-140, relating to reinstatement of pre-1986 act nondiscrimination rules, shall apply to the same taxable years as provided by federal law.

SEC. 5.5. Section 17149 of the Revenue and Taxation Code is amended to read:

17149. (a) Gross income does not include compensation or the fair market value of any other benefit, except salary or wages, received by an employee from an employer for participation in any ridesharing arrangement in California, including those specified in subdivision (b).

(b) For purposes of this section, compensation or the fair market value of any other benefit received for participation in a ridesharing arrangement in California includes compensation or other benefit received for:

(1) Commuting in a vanpool.

(2) Commuting in a private commuter bus or buspool.

(3) A monthly transit pass for use by the employee or his or her

dependents, other than transit passes for use by elementary and secondary school students who are dependents of the employee.

(4) Commuting in a subscription taxipool.

(5) Commuting in a carpool.

(6) Free or subsidized parking.

(c) For purposes of this section:

(1) "Vanpool" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 7 to 15 adults, including the driver.

(2) "Monthly transit pass" means any bulk purchase of transit rides that entitles the purchaser to 40 or more rides per month, whether at a discount rate or the base fare rate.

(3) "Transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.

(4) "Subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily fare basis following a relatively fixed route and schedule tailored to meet the needs of the subscribers.

(5) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where that transportation is incidental to another purpose of the driver. The term includes ridesharing arrangements known as carpools, vanpools, and buspools.

(6) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry less than seven adults, including the driver.

(7) "Buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 adult passengers.

(8) "Private commuter bus" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least seven adults, including the driver.

(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this section.

(D) With respect to which the taxpayer makes an election under this paragraph on his or her return for the taxable year in which the vehicle is placed in service.

(9) "Free or subsidized parking" means the benefit received from an employer for parking while participating in a ridesharing arrangement within California.

SEC. 6. Section 17151 of the Revenue and Taxation Code is amended to read:

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

(b) (1) The amendments made to Section 127 of the Internal Revenue Code by Section 1011B of Public Law 100-647, relating to educational assistance programs, shall apply to taxable years beginning on or after January 1, 1988.

(2) The amendments made to Section 127 of the Internal Revenue Code by Section 4001 of Public Law 100-647, relating to educational assistance programs, shall apply to taxable years beginning on or after January 1, 1988.

(c) For taxable years beginning on or after January 1, 1990, each of the following shall apply:

(1) The provisions of Section 127(d) of the Internal Revenue Code, relating to terminations, shall not apply.

(2) The provisions of Section 127 of the Internal Revenue Code, relating to educational assistance programs, shall not apply to any taxable year (or portion thereof) that those provisions (or similar provisions) are not applicable for federal income tax purposes.

SEC. 7. Section 17154 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 17157 of the Revenue and Taxation Code is amended to read:

17157. (a) The amendments made to Section 120 of the Internal Revenue Code by Section 1011B of Public Law 100-647, relating to amounts received under qualified group legal services plans, shall apply to taxable years beginning on or after January 1, 1988.

(b) The amendments made to Section 120 of the Internal Revenue Code by Section 4002 of Public Law 100-647, relating to amounts received under qualified group legal services plans, shall apply to taxable years beginning on or after January 1, 1988.

(c) For taxable years beginning on or after January 1, 1990, each of the following shall apply:

(1) The provisions of Section 120(e) of the Internal Revenue Code, relating to termination, shall not apply.

(2) The provisions of Section 120 of the Internal Revenue Code, relating to amounts received under qualified group legal services plans, shall not apply to any taxable year (or portion thereof) that those provisions (or similar provisions) are not applicable for federal income tax purposes.

SEC. 9. Section 17224 of the Revenue and Taxation Code is amended to read:

17224. Section 163(e) of the Internal Revenue Code is 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 is 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.

(c) The provisions of Section 7202(c) of Public Law 101-239, relating to the effective date for treatment of certain high yield original issue discount obligations, shall apply.

SEC. 10. 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.

(e) The provisions of Section 7622(b) of Public Law 101-239, relating to the effective date of changes in treatment of transfers of franchises, trademarks, and trade names, shall apply.

(f) The provisions of Section 7645(b) of Public Law 101-239, relating to the effective date of disallowance of depreciation for certain term interests, shall apply.

SEC. 10.5. Section 17279 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 17560 of the Revenue and Taxation Code is amended to read:

17560. (a) The provisions of Sections 811(c)(2), 811(c)(4), 811(c)(6), and 811(c)(7) of Public Law 99-514, as modified by Section 1008(f) of Public Law 100-647, shall apply.

(b) The provisions of Section 812 of Public Law 99-514, relating to the disallowance of use of installment method for certain obligations as modified by Section 1008(g) of Public Law 100-647, shall apply to taxable years beginning on or after January 1, 1987.

(c) The repeal of Section 453C of the Internal Revenue Code by Section 10202(a) of Public Law 100-203, relating to repeal of the proportionate disallowance of the installment method, shall apply to dispositions in taxable years beginning on or after January 1, 1990.

(d) (1) In the case of any installment obligation to which Section 453(*l*)(2)(B) of the Internal Revenue Code applies, in lieu of the provisions of Section 453(*l*)(3)(A) of the Internal Revenue Code, the tax imposed under Section 17041 or 17048 for any taxable year for which payment is received on that obligation shall be increased by the amount of interest determined in the manner provided under Section 453(*l*)(3)(B) of the Internal Revenue Code.

(2) The provisions of Sections 10202 and 10204 of Public Law 100-203 are modified to provide for each of the following:

(A) The provisions of Section 10202 shall apply to dispositions in taxable years beginning on or after January 1, 1990.

(B) The provisions of Section 10204 shall apply to costs incurred in taxable years beginning on or after January 1, 1990.

(C) Any adjustments required by Section 481 of the Internal Revenue Code shall be included in gross income as follows:

(i) Fifty percent in the first taxable year beginning on or after January 1, 1990.

(ii) Fifty percent in the second taxable year beginning on or after January 1, 1990.

(e) (1) In the case of any installment obligation to which Section 453A of the Internal Revenue Code applies and which is outstanding as of the close of the taxable year, in lieu of the provisions of Section 453A(c)(1) of the Internal Revenue Code, the "net tax" (as defined by Section 17039) for the taxable year shall be increased by the

amount of interest determined in the manner provided under Section 453A(c)(2) of the Internal Revenue Code.

(2) The provisions of Section 453A(c)(3)(B) of the Internal Revenue Code, relating to the maximum rate used in calculating the deferred tax liability, are modified to refer to the maximum rate of tax imposed under Section 17041 in lieu of the maximum rate of tax imposed under Section 1 or 11 of the Internal Revenue Code.

SEC. 12. Section 17561 of the Revenue and Taxation Code is amended to read:

17561. (a) For purposes of this part, the provisions of Section 469(d)(2) of the Internal Revenue Code, relating to passive activity credits, are modified to refer to the following credits:

(1) The credit for research expenses allowed by Section 17052.12.

(2) The credit for certain wages paid (targeted jobs) allowed by Section 17053.7.

(3) The credit for clinical testing expenses allowed by Section 17057.

(4) The credit for low-income housing allowed by Section 17058.

(b) For purposes of applying the provisions of Section 469(i) of the Internal Revenue Code, relating to the twenty-five thousand dollars ($25,000) offset for rental real estate activities, the dollar limitation for the credit allowed under Section 17058 (relating to low-income housing) shall be equal to seventy-five thousand dollars ($75,000) in lieu of the amount specified in Section 469(i)(2) of the Internal Revenue Code.

(c) Section 502 of the Tax Reform Act of 1986 (Public Law 99-514) shall apply.

(d) For taxable years beginning on or after January 1, 1987, the provisions of Section 10212 of Public Law 100-203, relating to treatment of publicly traded partnerships under Section 469 of the Internal Revenue Code, shall be applicable.

SEC. 12.5. Section 17563 of the Revenue and Taxation Code is repealed.

SEC. 12.7. Section 17563 is added to the Revenue and Taxation Code, to read:

17563. (a) In the case of any taxpayer who elected to have Section 463 of the Internal Revenue Code of 1986 apply for that taxpayer's last taxable year beginning prior to January 1, 1990, and who is required to change his or her method of accounting by reason of the amendments made by the act adding this section, each of the following shall apply:

(1) The change shall be treated as initiated by the taxpayer.

(2) The change shall be treated as having been made with the consent of the Franchise Tax Board.

(3) The net amount of adjustments required by Chapter 6 (commencing with Section 17551) to be taken into account by the taxpayer:

(A) Shall be reduced by the balance in the suspense account, under Section 463(c) of the Internal Revenue Code as of the close

of the last taxable year beginning before January 1, 1990, and

(B) Shall be taken into account over the two taxable year period beginning with the taxable year following that last taxable year, as follows:

In the case of the:	The percentage to be taken into account is:
1st Year	50
2nd Year	50

(b) Notwithstanding subparagraph (B) of paragraph (3) of subdivision (a), if the period during which the adjustments are required to be taken into account under Chapter 6 (commencing with Section 17551) is less than two years, those adjustments shall be taken into account ratably over the shorter period.

SEC. 13. Section 17564 of the Revenue and Taxation Code is amended to read:

17564. (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) (1) The provisions of Section 804(d) of Public Law 99-514, relating to the effective date of modifications in the method of accounting for long-term contracts, shall be applicable to taxable years beginning on or after January 1, 1987.

(2) In the case of a contract entered into after February 28, 1986, during a taxable year beginning before January 1, 1987, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between state and federal law for the taxable year in which the contract began.

(c) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 10203 of Public Law 100-203, relating to a reduction in the percentage of items taken into account under the completed contract method, shall apply to taxable years beginning on or after January 1, 1990.

(2) In the case of a contract entered into after October 13, 1987, during a taxable year beginning before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between California and federal law for taxable years beginning prior to January 1, 1990.

(d) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 5041 of Public Law 100-647, relating to a reduction in the percentage of items taken into account under the completed contract method, shall apply to taxable years beginning on or after January 1, 1990.

(2) In the case of a contract entered into after June 20, 1988,

during a taxable year beginning before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between California and federal law for taxable years beginning prior to January 1, 1990.

(e) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 7621 of Public Law 101-239, relating to the repeal of the completed contract method of accounting for long-term contracts, shall apply to taxable years beginning on or after January 1, 1990.

(2) In the case of a contract entered into after July 10, 1989, during a taxable year beginning before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between California and federal law for taxable years beginning prior to January 1, 1990.

(f) For purposes of applying Section 460(a)(2) of the Internal Revenue Code, relating to 90 percent look-back method, any adjustment to income computed under paragraph 2 of subdivision (b), (c), (d), or (e) shall be deemed to have been reported in the taxable year from which the adjustment arose, rather than the taxable year in which the contract was completed.

SEC. 13.2. Section 18180 of the Revenue and Taxation Code is amended to read:

18180. (a) The provisions of Section 7872 of the Internal Revenue Code, relating to the treatment of loans with below market interest rates, shall apply.

(b) Section 307 of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101-179) shall not apply for purposes of this part.

SEC. 13.5. Section 18410.5 of the Revenue and Taxation Code is amended to read:

18410.5. Where the amount shown as the tax by the husband and wife on a joint return made under Section 18410 exceeds the aggregate of the amounts shown as the tax upon the separate return of each spouse, each of the following shall apply:

(a) If any part of the excess is attributable to negligence or intentional disregard of rules and regulations (but without intent to defraud) at the time of the making of the separate return, then 20 percent of the total amount of the excess shall be assessed, collected, and paid, in lieu of the 20 percent addition to the tax provided in subdivision (a) of Section 18685.

(b) If any part of the excess is attributable to fraud with intent to evade tax at the time of the making of the separate return, then 75 percent of the total amount of the excess shall be so assessed, collected, and paid, in lieu of the 75 percent addition to the tax provided in subdivision (b) of Section 18685.

SEC. 14. Section 18681 of the Revenue and Taxation Code is

amended to read:

18681. (a) If any taxpayer fails to make and file a return required by this part on or before the due date of the return or the due date as extended by the Franchise Tax Board, then, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, 5 percent of the tax shall be added to the tax for each month or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed 25 percent of the tax. The penalty so added to the tax shall be due and payable upon notice and demand from the Franchise Tax Board. In the case of a failure to file a return of tax required by this part within 60 days of the date prescribed for filing of that return (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, this penalty shall not be less than the lesser of one hundred dollars ($100) or 100 percent of the amount of tax required to be shown on the return.

(b) For purposes of subdivision (a), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

(c) This section shall not apply to any failure to pay any estimated tax required by Section 18682.

(d) If any failure to file any return is fraudulent, subdivision (a) shall be applied by:

(1) Substituting "15 percent" for "5 percent," and

(2) Substituting "75 percent" for "25 percent."

SEC. 15. Section 18681.1 of the Revenue and Taxation Code is amended to read:

18681.1. (a) (1) A penalty shall be imposed for failure to file correct information returns, as required by this part, and that penalty shall be determined in accordance with Section 6721 of the Internal Revenue Code.

(2) Section 6721(e) of the Internal Revenue Code is modified as follows:

(A) To refer to subdivision (a) of Section 18802.4 in lieu of Section 6045(a) of the Internal Revenue Code.

(B) The reference to Section 6041A(b) of the Internal Revenue Code shall not apply.

(b) (1) A penalty shall be imposed for failure to furnish correct payee statements as required by this part, and that penalty shall be determined in accordance with Section 6722 of the Internal Revenue Code.

(2) Section 6722(c) of the Internal Revenue Code is modified as follows:

(A) To refer to subdivision (b) of Section 18802.4 in lieu of Section 6045(b) of the Internal Revenue Code.

(B) The references to Sections 6041A(b) and 6041A(e) of the

Internal Revenue Code shall not apply.

(c) A penalty shall be imposed for failure to comply with other information reporting requirements under this part, and that penalty shall be determined in accordance with Section 6723 of the Internal Revenue Code.

(d) (1) The provisions of Section 6724 of the Internal Revenue Code relating to waiver, definitions, and special rules, shall apply, except as otherwise provided.

(2) Section 6724(d)(1) is modified as follows:

(A) The following references are substituted:

(i) Section 18802, in lieu of Section 6041(a) of the Internal Revenue Code.

(ii) Section 18802.2, in lieu of Section 6041A(a) of the Internal Revenue Code.

(iii) Subdivision (a) of Section 18802.1, in lieu of Section 6044(a)(1) of the Internal Revenue Code.

(iv) Subdivision (a) of Section 18802.4, in lieu of Section 6045(a) of the Internal Revenue Code.

(v) Subdivision (a) of Section 18802.8, in lieu of Section 6050A(a) of the Internal Revenue Code.

(vi) Subdivision (a) of Section 18802.5, in lieu of Section 6052(a) of the Internal Revenue Code.

(B) References to Sections 4093(c)(4), 4093(e), 6041(b), 6041A(b), 6045(d), 6051(d), and 6053(c)(1) of the Internal Revenue Code shall not apply.

(3) Section 6724(d)(2) is modified as follows:

(A) The following references are substituted:

(i) Subdivision (b) of Section 18405, in lieu of Section 6034A of the Internal Revenue Code.

(ii) Subdivision (a) of Section 18802.7, in lieu of Section 6039(a) of the Internal Revenue Code.

(iii) Subdivision (b) of Section 18802.1, in lieu of Section 6044(e) of the Internal Revenue Code.

(iv) Subdivision (b) of Section 18802.4, in lieu of Section 6045(b) of the Internal Revenue Code.

(v) Subdivision (b) of Section 18802.8, in lieu of Section 6050A(b) of the Internal Revenue Code.

(vi) Subdivision (b) of Section 18802.5, in lieu of Section 6052(b) of the Internal Revenue Code.

(B) References to Sections 4093(c)(4)(B), 6031(b), 6037(b), 6041A(e), 6045(d), 6051(d), 6053(b), and 6053(c) of the Internal Revenue Code shall not apply.

(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. 16. Section 18684 of the Revenue and Taxation Code is repealed.

SEC. 17. Section 18684.4 of the Revenue and Taxation Code is repealed.

SEC. 18. Section 18685 is added to the Revenue and Taxation Code, to read:

18685. (a) An accuracy-related penalty shall be imposed under this part and shall be determined in accordance with the provisions of Section 6662 of the Internal Revenue Code, relating to imposition of accuracy-related penalty.

(b) A fraud penalty shall be imposed under this part and shall be determined in accordance with the provisions of Section 6663 of the Internal Revenue Code, relating to imposition of fraud penalty.

(c) The provisions of Section 6664 of the Internal Revenue Code, relating to definitions and special rules, shall apply.

(d) The provisions of Section 6665 of the Internal Revenue Code, relating to applicable rules, shall apply.

SEC. 19. Section 18685.07 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 18689 of the Revenue and Taxation Code is amended to read:

18689. (a) Except as provided in Section 18692, interest shall be imposed under this article with respect to any penalty assessable under this part or Part 11 (commencing with Section 23001), as provided in this section.

(b) In the case of a penalty which, when assessed, is due and payable on notice and demand, other than a penalty imposed under Section 18681 (relating to failure to file a return on or before the due date), Section 18684.2 (relating to underpayment of tax), or Section 18685 (relating to imposition of the accuracy-related penalty), interest shall be imposed from the date of the notice and demand to the date of payment.

(c) In the case of a penalty which is initially assessed as a deficiency, other than a penalty imposed under Section 18681 (relating to failure to file a return on or before the due date), Section 18684.2 (relating to underpayment of tax), or Section 18685 (relating to imposition of the accuracy-related penalty), interest shall be imposed from the date of the notice of proposed assessment to the date of payment.

(d) Interest shall be imposed under this article with respect to any penalty imposed by Section 18681 (relating to failure to file a return on or before the due date), Section 18684.2 (relating to underpayment of tax), or Section 18685 (relating to imposition of the accuracy-related penalty), for the period which—

(1) Begins on the date on which the return of the tax with respect to which that penalty is imposed is required to be filed (including any extensions), and

(2) Ends on the date of payment of that addition to tax.

(e) The amendments to subdivisions (c) and (d) made by Chapter 1352 of the Statutes of 1989 shall apply only to returns, the due date for which, determined without regard to extensions, is after December 31, 1988.

SEC. 21. Section 18698.5 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 18699 of the Revenue and Taxation Code is repealed.

SEC. 23. Section 23038.5 is added to the Revenue and Taxation Code, to read:

23038.5. The provisions of Section 7704 of the Internal Revenue Code, relating to certain publicly traded partnerships treated as corporations, shall apply.

SEC. 23.3. Section 23051.5 of the Revenue and Taxation Code is amended to read:

23051.5. (a) (1) 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.

(2) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the income year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part, shall be applicable to the same income years as the incorporated provisions.

(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) Domestic International Sales Corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(2) Foreign Sales Corporations (FSC), as defined in Section 922(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 required to file a return under Section 6048 of the Internal Revenue Code.

(7) Foreign income taxes and foreign income tax credits.

(8) Federal tax credits and carryovers of federal tax credits.

(c) When applying any provision of the Internal Revenue Code—

(1) For purposes of Chapter 2 (commencing with Section 23101), Chapter 2.5 (commencing with Section 23400), and Chapter 3 (commencing with Section 23501), the term "taxable income" shall mean "net income" (as defined by Section 24341).

(2) For purposes of Article 2 (commencing with Section 23731) of Chapter 4, the term "taxable income" shall mean "unrelated business taxable income" (as defined by Section 23732).

(d) (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.

(e) 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 is operative on or after the specified date for that income year shall also be operative on the same date for purposes of this part.

(3) Any provision of the Internal Revenue Code which is inoperative on or after the specified date for that income year shall also be 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.

(5) Any provision of the Internal Revenue Code which refers to a "corporation" shall, when applicable for purposes of this part, include a "bank" (as defined by Section 23039).

(6) Any reference to "chapter" shall mean Part 11 (commencing with Section 23001) of Division 2.

(f) 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.

(g) 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.

(h) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (g) shall be applicable with respect to any such application or consent.

SEC. 24. Section 23456 of the Revenue and Taxation Code is amended to read:

23456. For purposes of this part, Section 56 of the Internal Revenue Code is modified as follows:

(a) (1) Section 56(a)(2) of the Internal Revenue Code, relating to mining exploration and development costs, shall apply only to expenses incurred during income years beginning on or after January 1, 1988.

(2) Section 56(a)(5) of the Internal Revenue Code, relating to pollution control facilities, shall apply only to amounts allowable as a deduction under Section 24372.3.

(b) Section 56(c)(2) of the Internal Revenue Code, relating to Merchant Marine Capital Construction Funds, shall not be applicable.

(c) (1) For purposes of applying Section 56(d) of the Internal Revenue Code, all references to "December 31, 1986," are modified to read "December 31, 1987," and all references to "January 1, 1987," are modified to read "January 1, 1988."

(2) (A) If there was a deferral of preference tax under former Section 23405 for any income year beginning before January 1, 1988, and the amount of the deferred tax has not been paid for any income year beginning before January 1, 1988, the amount of the net operating loss carryovers which may be carried to income years beginning after December 31, 1987, for purposes of this chapter, shall be reduced by the amount of the tax preferences attributable to the deferred tax which has not been paid.

(B) In the case of a net operating loss allowed to be carried forward under subdivision (e) of Section 24416, subparagraph (A) shall apply to the extent that such a loss would have resulted in a deferred tax under prior law.

(d) (1) Section 56(f)(2)(B) of the Internal Revenue Code,

relating to adjustments for certain taxes, is modified to read: The amount determined under subparagraph (A) shall be appropriately adjusted to disregard any tax on or measured by income.

(2) The last sentence of Section 56(f)(2)(B) of the Internal Revenue Code, relating to taxes imposed by a foreign country or possession, shall not be applicable.

(3) Section 56(f)(2)(C)(i) of the Internal Revenue Code, relating to consolidated returns, is modified to substitute "combined report" for "consolidated return."

(4) Section 56(f)(2)(C)(ii) of the Internal Revenue Code, relating to treatment of dividends of related corporations, is modified to read: Adjusted net book income shall take into account only those dividends (or portions thereof) which have been included in net income for purposes of determining the regular tax.

(5) Section 56(f)(2)(E) of the Internal Revenue Code, relating to special rule for cooperatives, is modified to refer to Section 24404, in lieu of the deduction allowed under Section 1382(b) of the Internal Revenue Code.

(6) Section 56(f)(2)(F) of the Internal Revenue Code, relating to treatment of dividends from 936 corporations, shall not be applicable.

(7) Section 56(f)(2)(G) of the Internal Revenue Code, relating to rules for Alaska native corporations, shall not be applicable.

(8) With respect to corporations which are not subject to the tax imposed under Chapter 2 (commencing with Section 23101), the amount of interest income included in book income shall not exceed the amount of interest income included for purposes of the regular tax.

(9) Appropriate adjustments shall be made to limit deductions from book income for interest expense in accordance with Sections 24344 and 24425.

(e) Section 56(g)(4)(A) of the Internal Revenue Code is modified to provide that:

(1) In the case of any property placed in service on or after January 1, 1981, and 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) for which the taxpayer has held the property.

(2) In the case of any property placed in service on or after January 1, 1987, and prior to January 1, 1990, 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 determined under the alternative system of Section 168(g) of the Internal Revenue Code.

(f) (1) Section 56(g)(4)(C) of the Internal Revenue Code,

relating to disallowance of items not deductible in computing earnings and profits, shall be modified as follows:

(A) A deduction shall be allowed for amounts allowable as a deduction for purposes of the regular tax under Sections 24402, 24410, 24411, and 25106.

(B) Section 56(g)(4)(C)(ii) of the Internal Revenue Code, relating to special rule for 100 percent dividends, shall not be applicable.

(C) Section 56(g)(4)(C)(iii) of the Internal Revenue Code, relating to special rule for dividends from Section 936 companies, shall not be applicable.

(D) Section 56(g)(4)(C)(iv) of the Internal Revenue Code, relating to special rule for certain dividends received by certain cooperatives, shall not be applicable.

(2) Section 56(g)(4)(D)(ii) of the Internal Revenue Code is modified to specify that Sections 24364 and 24407 shall not apply to expenditures paid or incurred in income years beginning on or after January 1, 1990.

(3) With respect to corporations which are not subject to the tax imposed under Chapter 2 (commencing with Section 23101), the amount of interest income included in the adjusted current earnings shall not exceed the amount of interest income included for purposes of the regular tax.

(4) Appropriate adjustments shall be made to limit deductions from adjusted current earnings for interest expense in accordance with the provisions of Sections 24344 and 24425.

SEC. 25. *Section 23609 of the Revenue and Taxation Code is* amended to read:

23609. For income years beginning on or after January 1, 1987, and before January 1, 1993, there shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) (1) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "8 percent."

(2) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "12 percent."

(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 by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(e) (1) Section 41 (h) of the Internal Revenue Code, relating to termination, shall not apply.

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

(f) (1) In the case of a taxpayer to whom paragraph (2) of subdivision (g) does not apply, the following rules shall apply:

(A) In the case of any income year which begins before January 1, 1988, and ends after December 31, 1987, any amount 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 after December 31, 1993, bears to the total number of days in that income year.

(B) 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.

(2) (A) In the case of a taxpayer to whom paragraph (2) of subdivision (g) applies, subparagraph (B) shall apply.

(B) In the case of any income year which begins before January 1, 1993, and ends after December 31, 1992, the base amount with respect to that income year shall be the amount which bears the same ratio to the base amount for that year (determined without regard to this subparagraph) as the number of days in that income year before January 1, 1993, bears to the total number of days in that income year.

(g) (1) Except as provided in paragraph (2), the following rules, in lieu of Section 41 (c) of the Internal Revenue Code, shall apply for purposes of this part:

(A) The term "base amount" means the average of the qualified research expenses for each year in the "base period."

(B) The term "base period" means the three income years immediately preceding the income year for which the determination is being made (hereafter in this subdivision referred to as the "determination year").

(C) In no event shall the "base amount" be less than 50 percent of the qualified research expenses for the determination year.

(2) In the case of a taxpayer described in Section 41 (c) (3) (B) of the Internal Revenue Code, relating to startup companies, Section

41(c) of the Internal Revenue Code shall apply, but only to the first income year for which a credit is claimed under this section and the number of income years immediately following that income year that are necessary in order for the taxpayer to have three income years beginning after December 31, 1987, in which the taxpayer had both gross receipts and qualified research expenses.

(h) This section shall remain in effect only until December 1, 1993, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (d), until the credit has been exhausted.

SEC. 25.5. Section 23732 of the Revenue and Taxation Code is amended to read:

23732. The provisions of Section 512 of the Internal Revenue Code, relating to unrelated business taxable income, shall apply, except as otherwise provided.

(a) Section 512(a)(2) of the Internal Revenue Code, relating to special rules for foreign organizations, shall not be applicable.

(b) Section 512(a)(3) of the Internal Revenue Code, relating to special rules applicable to certain organizations, shall be modified as follows:

(1) The reference to Section 501(c)(7) of the Internal Revenue Code, relating to clubs organized for pleasure, recreation, and other nonprofitable purposes, shall be modified to refer to Section 23701g.

(2) The reference to Section 501(c)(9) of the Internal Revenue Code, relating to voluntary employees' beneficiary associations, shall be modified to refer to Section 23701i.

(3) The reference to Section 501(c)(17) of the Internal Revenue Code, relating to trusts providing for payment of supplemental unemployment compensation benefits, shall be modified to refer to Section 23701n.

(4) The reference to Section 501(c)(20) of the Internal Revenue Code, relating to qualified group legal services plans, shall be modified to refer to Section 23701q.

(c) Section 512(b)(10) of the Internal Revenue Code, relating to charitable contributions, shall be modified to provide that such deductions shall not exceed 5 percent of the unrelated business taxable income, rather than 10 percent.

SEC. 25.7. Section 23735 of the Revenue and Taxation Code is amended to read:

23735. (a) The provisions of Section 514 of the Internal Revenue Code, relating to unrelated debt-financed income, shall apply, except as otherwise provided.

(b) The provisions of Section 10214 of Public Law 100-203, relating to the treatment of certain partnership allocations, shall apply to income years beginning on or after January 1, 1990, for property acquired by the partnership after October 13, 1987, and partnership interests acquired after October 13, 1987.

SEC. 25.8. Section 23802 of the Revenue and Taxation Code is amended to read:

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) 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) In the case of an "S corporation" which is also a financial corporation, the rate of tax specified in paragraph (1) shall be increased by the excess of the rate imposed under Section 23183 over the rate imposed under Section 23151 and Section 23184 shall be applicable.

(3) An "S corporation" shall not be subject to the alternative minimum tax (or preference tax) imposed under Section 23400.

(c) An "S corporation" shall be subject to the minimum tax imposed under Section 23153.

(d) (1) For purposes of subdivision (b), an "S corporation" shall be allowed a deduction under Section 24416 or 24416.1 (relating to net operating loss deductions), but only with respect to losses incurred during periods in which the corporation had in effect a valid election to be treated as an "S corporation" for purposes of this part.

(2) Section 1371(b) of the Internal Revenue Code, relating to denial of carryovers between "C years" and "S years", shall apply for purposes of the tax imposed under subdivision (b), except as provided in paragraph (1) of this subdivision.

(3) The provisions of this subdivision shall not affect the amount of any item of income or loss computed in accordance with the provisions of Section 1366 of the Internal Revenue Code, relating to pass-thru items to shareholders.

(4) For purposes of subdivision (b) of Section 17276, relating to limitations on loss carryovers, losses passed through to shareholders of an "S corporation," to the extent otherwise allowable without application of that subdivision, shall be fully included in the net operating loss of that shareholder and then that subdivision shall be applied to the entire net operating loss.

(e) For purposes of computing the taxes specified in subdivision (b), an "S corporation" shall be allowed a deduction from income for built-in gains and passive investment income for which a tax has been imposed under this part in accordance with the provisions of Section 1374 of the Internal Revenue Code, relating to tax imposed on certain built-in gains, or Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income.

(f) For purposes of computing taxes imposed under this part, as provided in subdivision (b)—

(1) An "S corporation" shall compute its deductions for amortization and depreciation in accordance with the provisions of Part 10 (commencing with Section 17001) of Division 2.

(2) The provisions of Section 465 of the Internal Revenue Code, relating to limitation of deductions to the amount at risk, shall be applied in the same manner as in the case of an individual.

(3) (A) The provisions of Section 469 of the Internal Revenue Code, relating to limitations on passive activity losses and credits, shall be applied in the same manner as in the case of an individual.

(B) For purposes of this paragraph, the "adjusted gross income" of the "S corporation" shall be equal to its "net income," as determined under Section 24341 with the modifications required by this subdivision.

(g) The provisions of Section 1363(d) of the Internal Revenue Code, relating to recapture of LIFO benefits, shall be modified for purposes of this part to refer to Section 25901a in lieu of Section 6601 of the Internal Revenue Code.

SEC. 26. Section 24274 of the Revenue and Taxation Code is repealed.

SEC. 27. Section 24343.5 of the Revenue and Taxation Code is amended to read:

24343.5. (a) In addition to the deduction allowed by Section 24343, a deduction shall be allowed to an employer as an ordinary and necessary expense paid or incurred during the income year in carrying on any trade or business for those expenses involved in any of the following ridesharing arrangements:

(1) Subsidizing employees commuting in vanpools.

(2) Subsidizing employees commuting in private commuter buses or buspools.

(3) Subsidizing monthly transit passes for its employees or for use by the employee's dependents, except that no deduction shall be allowed for transit passes issued for the use of elementary and secondary school students.

(4) Subsidizing employees commuting in subscription taxipools.

(5) Subsidizing employees commuting in a carpool.

(6) In the case of an employer who offers free parking to its employees, offering a cash equivalent to employees who do not require parking.

(7) Providing free or preferential parking to carpools, vanpools, or any other vehicle used in a ridesharing arrangement.

(8) Making facility improvements to encourage employees, for the purpose of commuting from their homes, to participate in ridesharing arrangements, to use bicycles, or to walk. These facility improvements may include, but are not limited to, any of the following: the construction of bus shelters; the installation of bicycle racks and other bicycle-related facilities, such as showers and locker rooms; and parking lot modifications to provide carpools, vanpools, or buspools with preferential treatment. The cost of these facility improvements shall be allowed as a depreciation deduction. Notwithstanding subdivision (c), the depreciation deduction shall be allowable over a 36-month period.

(9) Providing company commuter van or bus service to its

employees and to others for commuting from their homes, but not for transportation required as part of the employer's business activities, except as otherwise provided in this section. The capital costs of providing this service shall not be an eligible deduction under this section.

(10) Providing to employees transportation services which are required as part of the employer's business activities to the extent that the transportation would be provided by employees without reimbursement in the absence of an employer-sponsored ridesharing incentive program. The capital costs of providing this service shall not be an eligible deduction under this section.

(b) For purposes of this section:

(1) "Employer" means either of the following:

(A) A taxpayer for whom services are performed by employees, except entities which are not subject to tax under this part.

(B) A taxpayer which is a private or public educational institution which enrolls students at higher than the secondary level.

(2) "Employee" means either of the following:

(A) An individual who performs service for an employer for more than eight hours per week for remuneration.

(B) Any commuting student, as defined in paragraph (3).

(3) "Commuting student" means a registered full-time student at a college, university, or other postsecondary educational institution, who lives apart from the property which is designated as the "employment site" for the purpose of this section, and who travels between his or her residence and the designated employment site on a regular, though not necessarily daily, basis.

(4) "Employer-sponsored ridesharing incentive program" means a program undertaken by an employer either alone or in cooperation with other employers to encourage or provide, or both, fiscal other incentives to employees to make the home-to-work commute trip by any mode other than the single-occupant motor vehicle.

(5) "Company commuter bus or van" means a highway vehicle which meets all of the following criteria:

(A) Has at least seven or more persons commuting on a daily basis to and from work.

(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this legislation.

(6) "Vanpool" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 7 to 15 adult persons.

(7) "Monthly transit pass" means any bulk purchase of transit rides that entitles the purchaser to 40 or more rides per month, whether at a discount rate or the base fare rate.

(8) "Transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity

of 16 or more persons.

(9) "Subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily-fare basis, following a relatively fixed route and schedule tailored to meet the needs of the subscribers.

(10) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where that transportation is incidental to another purpose of the driver. The term includes ridesharing arrangements known as carpools, vanpools, and buspools.

(11) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry less than seven adults, including the driver.

(12) "Buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 adult passengers.

(13) "Private commuter bus" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least seven adults, including the driver.

(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this section.

(D) With respect to which the taxpayer makes an election under this paragraph on its return for the income year in which the vehicle is placed in service.

SEC. 28. 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 allowable under Section 163 of the Internal Revenue Code that is incurred for purposes of foreign investments may be offset against dividends deductible under Section 24411.

(d) The provisions of Section 7210(b) of Public Law 101-239, relating to the effective date for limitation on deduction for certain interest paid to a related person, shall apply.

(e) Section 163(j)(6)(C) of the Internal Revenue Code, relating to treatment of an affiliated group, is modified to apply to all members of a combined report filed under Section 25102.

SEC. 28.5. 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.

(d) The provisions of Section 7202(c) of Public Law 101-239, relating to the effective date for treatment of certain high yield original issue discount obligations, shall apply.

SEC. 29. Section 24365 of the Revenue and Taxation Code is repealed.

SEC. 30. Section 24365 is added to the Revenue and Taxation Code, to read:

24365. (a) The provisions of Section 174 of the Internal Revenue Code, relating to research and experimental expenditures, shall apply.

(b) Section 174(b) of the Internal Revenue Code is modified to refer to subdivision (a) of Section 24916 in lieu of Section 1016(a)(1) of the Internal Revenue Code.

(c) Section 174(c) of the Internal Revenue Code is modified to refer to Sections 24349 to 24356, inclusive, in lieu of Section 167 of the Internal Revenue Code.

SEC. 31. Section 24366 of the Revenue and Taxation Code is repealed.

SEC. 32. Section 24367 of the Revenue and Taxation Code is repealed.

SEC. 33. Section 24368 of the Revenue and Taxation Code is repealed.

SEC. 34. Section 24368.1 of the Revenue and Taxation Code is

repealed.

SEC. 35. Section 24368.1 is added to the Revenue and Taxation Code, to read:

24368.1. (a) Section 167(r) of the Internal Revenue Code, relating to certain term interests not depreciable, shall apply.

(b) The provisions of Section 7622(b) of Public Law 101-239, relating to the effective date of changes in treatment of transfers of franchises, trademarks, and trade names, shall apply.

(c) The provisions of Section 7645(b) of Public Law 101-239, relating to the effective date of disallowance of depreciation for certain term interests, shall apply.

SEC. 35.2. Section 24402 of the Revenue and Taxation Code is amended to read:

24402. (a) A portion of the dividends received during the income year declared from income which has been included in the measure of the taxes imposed under Chapter 2 (commencing with Section 23101), Chapter 2.5 (commencing with Section 23400), or Chapter 3 (commencing with Section 23501) upon the taxpayer declaring the dividends.

(b) The portion of dividends which may be deducted under this section shall be as follows:

(1) In the case of any dividend described in subdivision (a), received from a "more than 50 percent owned corporation," 100 percent.

(2) In the case of any dividend described in subdivision (a), received from a "20 percent owned corporation," 80 percent.

(3) In the case of any dividend described in subdivision (a), received from a bank or corporation which is less than 20 percent owned, 70 percent.

(c) For purposes of this section:

(1) The term "more than 50 percent owned corporation" means any bank or corporation if more than 50 percent of the stock of that bank or corporation (by vote and value) is owned by the taxpayer. For purposes of the preceding sentence, stock described in Section 1504(a)(4) of the Internal Revenue Code shall not be taken into account.

(2) The term "20 percent owned corporation" means any bank or corporation if 20 percent or more of the stock of that bank or corporation (by vote and value) is owned by the taxpayer. For purposes of the preceding sentence, stock described in Section 1504(a)(4) of the Internal Revenue Code shall not be taken into account.

SEC. 35.3. Section 24422.3 of the Revenue and Taxation Code is amended to read:

24422.3. The provisions of Section 263A of the Internal Revenue Code, relating to capitalization and inclusion in inventory costs of certain expenses, shall apply.

SEC. 35.7. Section 24457 of the Revenue and Taxation Code is amended to read:

24457. (a) Section 304 of the Internal Revenue Code, relating to redemption through the use of related corporations, shall be applicable, except as otherwise provided.

(b) For purposes of applying the provisions of Section 304(b) (4) of the Internal Revenue Code, the term "affiliated group" means a controlled group within the meaning of Section 24564.

SEC. 36. Section 24521 of the Revenue and Taxation Code is amended to read:

24521. (a) No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock in the corporation and immediately after the exchange the person or persons are in control (as defined in Section 24564) of the corporation.

(b) If subdivision (a) would apply to an exchange but for the fact that there is received, in addition to the stock permitted to be received under subdivision (a), other property or money, then:

(1) Gain (if any) to the recipient shall be recognized, but not in excess of the total of both of the following:

(A) The amount of money received.

(B) The fair market value of the other property received.

(2) No loss to the recipient shall be recognized.

(c) In determining control, for purposes of this section, the fact that any corporate transferor distributes part or all of the stock which it receives in the exchange to its shareholders shall not be taken into account.

(d) For purposes of this section, stock issued for any of the following shall not be considered as issued in return for property:

(1) Services.

(2) Indebtedness of the transferee corporation which is not evidenced by a security.

(3) Interest on indebtedness of the transferee corporation which accrued on or after the beginning of the transferor's holding period for the debt.

(e) With respect to transfers on or after June 21, 1988, if—

(1) Property is transferred to a corporation (hereinafter in this subdivision referred to as the "controlled corporation") in an exchange with respect to which gain or loss is not recognized (in whole or in part) to the transferor under this section, and

(2) The exchange is not in pursuance of a plan of reorganization,

Section 24481 shall apply to any transfer in the exchange by the controlled corporation in the same manner as if the transfer were a distribution to which Article 1 (commencing with Section 24451) of Chapter 8 applies.

(f) This section does not apply to a transfer of property of a debtor pursuant to a plan while the debtor is under the jurisdiction of a court in a Title 11 or similar case (within the meaning of paragraph (1) of subdivision (d) of Section 24562), to the extent that the stock received in the exchange are used to satisfy the indebtedness of the

debtor.

SEC. 36.5. Section 24533 of the Revenue and Taxation Code is amended to read:

24533. (a) Section 24532 shall apply only if either—

(1) The distributing corporation, and the controlled corporation (or, if stock of more than one controlled corporation is distributed, each of such corporations) is engaged immediately after the distribution in the active conduct of a trade or business; or

(2) Immediately before the distribution, the distributing corporation had no assets other than stock or securities in the controlled corporations and each of the controlled corporations is engaged immediately after the distribution in the active conduct of a trade or business.

(b) For purposes of subsection (a), a corporation shall be treated as engaged in the active conduct of a trade or business if and only if—

(1) It is engaged in the active conduct of a trade or business, or substantially all of its assets consist of stock and securities of a corporation controlled by it (immediately after the distribution) which is so engaged;

(2) Such trade or business has been actively conducted throughout the five-year period ending on the date of the distribution;

(3) Such trade or business was not acquired within the period described in paragraph (2) in a transaction in which gain or loss was recognized in whole or in part; and

(4) Control of a corporation which (at the time of acquisition of control) was conducting such trade or business—

(A) Was not acquired by any distributee corporation directly (or through one or more corporations, whether through the distributing corporation or otherwise) within the period described in paragraph (2) and was not acquired by the distributing corporation directly (or through one or more corporations) within that period, or

(B) Was so acquired by any such corporation within that period, but, in each case in which such control was so acquired, it was so acquired, only by reason of transactions in which gain or loss was not recognized in whole or in part, or only by reason of such transactions combined with acquisitions before the beginning of that period.

(C) For purposes of this paragraph, all distributee corporations which are members of a controlled group (within the meaning of Section 24564) shall be treated as one distributee corporation.

(c) Section 311 of the Internal Revenue Code (as incorporated by Section 24481) shall apply to any distribution:

(1) To which this section (or so much of Sections 24535 to 24539, inclusive, as relates to this section) applies, and

(2) Which is not in pursuance of a plan of reorganization, in the same manner as if the distribution were a distribution to which Chapter 2 (commencing with Section 23101) or Chapter 2.5 (commencing with Section 23400) applies, except that Section

311(b) of the Internal Revenue Code shall not apply to any distribution of stock or securities in the controlled corporation.

(d) (1) The amendments to this section by the act adding this subdivision shall not apply to any distribution after December 15, 1987, and before January 1, 1993, if:

(A) Eighty percent or more of the stock of the distributing corporation was acquired by the distributee before December 15, 1987, or

(B) Eighty percent or more of the stock of the distributing corporation was acquired by the distributee before January 1, 1989, pursuant to a binding written contract or tender offer in effect on December 15, 1987.

(C) For purposes of this paragraph, stock described in Section 1504(a)(4) of the Internal Revenue Code shall not be taken into account.

(2)(A) For purposes of paragraph (1), all corporations which were in existence on the designated date and were members of the same controlled group (as defined in Section 24564) which included the distributees on that date shall be treated as one distributee.

(B) Subparagraph (A) shall not exempt any distribution from the amendments made to this section by the act adding this subdivision if that distribution is with respect to stock not held by the distributee (determined without regard to subparagraph (A)) on the designated date directly or indirectly through a corporation which goes out of existence in the transaction.

(C) For purposes of this paragraph, the term "designated date" means the later of:

(i) December 15, 1987, or

(ii) The date on which the acquisition meeting the requirements of paragraph (1) occurred.

SEC. 37. Section 24562 of the Revenue and Taxation Code is amended to read:

24562. (a) For purposes of Chapter 8 (commencing with Section 24451), Chapter 9 (commencing with Section 24501), and this chapter, "reorganization" means any of the following:

(1) A statutory merger or consolidation.

(2) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of that other corporation (whether or not the acquiring corporation had control immediately before the acquisition).

(3) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the

other, or the fact that property acquired is subject to a liability, shall be disregarded.

(4) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535.

(5) A recapitalization.

(6) A mere change in identity, form, or place of organization of one corporation, however effected.

(7) A transfer by a corporation of all or part of its assets to another corporation in a Title 11 or similar case; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535.

(b) (1) If a transaction is described in both paragraph (3) and paragraph (4) of subdivision (a), then, for purposes of this chapter, the transaction shall be treated as described only in paragraph (4) of subdivision (a).

(2) If:

(A) One corporation acquires substantially all of the properties of another corporation;

(B) The acquisition would qualify under paragraph (3) of subdivision (a) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock; and

(C) The acquiring corporation acquires, solely for voting stock described in paragraph (3) of subdivision (a), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation;

then the acquisition shall (subject to paragraph (1) of this subdivision) be treated as qualifying under paragraph (3) of subdivision (a). Solely for the purpose of determining whether subparagraph (C) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

(3) A transaction otherwise qualifying under paragraph (1), (2), or (3) of subdivision (a) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring the assets or stock. A similar rule shall apply to a transaction otherwise qualifying under paragraph (7) of subdivision (a) where the requirements of subparagraphs (A) and

(B) of paragraph (1) of subdivision (b) of Section 24531 are met with respect to the acquisition of the assets.

(4) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this paragraph as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under paragraph (1) or paragraph (7) of subdivision (a), if both of the following apply:

(A) No stock of the acquiring corporation is used in the transaction.

(B) In the case of a transaction under paragraph (1) of subdivision (a), the transaction would have qualified under paragraph (1) of subdivision (a) had the merger been into the controlling corporation.

(5) A transaction otherwise qualifying under paragraph (1) of subdivision (a) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this paragraph as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if both of the following apply:

(A) After the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction).

(B) In the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

(6) (A) If immediately before a transaction described in subdivision (a) (other than paragraph (5) thereof), two or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of subparagraph (B).

(B) A corporation meets the requirements of this subparagraph if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of five or fewer issuers. For purposes of this subparagraph, all members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code) shall be treated as one issuer. For purposes of this subparagraph, a person holding stock in a regulated investment company, a real estate investment trust, or an investment company which meets the requirements of this subparagraph shall, except as provided in regulations, be treated as holding its proportionate share of the assets

held by that company or trust.

(C) For purposes of this paragraph, "investment company" means a regulated investment company, a real estate investment trust, or a corporation 50 percent or more of the value of whose total assets are stock and securities and 80 percent or more of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

(D) For purposes of this paragraph, in determining total assets there shall be excluded cash and cash items (including receivables), government securities, and, under regulations prescribed by the Franchise Tax Board, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of subparagraph (B) or ceasing to be an investment company.

(E) This paragraph does not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.

(F) If an investment company which does not meet the requirements of subparagraph (B) acquires assets of another corporation, subparagraph (A) shall be applied to that investment company and its shareholders and security holders as though its assets had been acquired by that other corporation. If the investment company acquires stock of another corporation in a reorganization described in paragraph (2) of subdivision (a) of Section 24562 (hereafter referred to as the "actual acquisition") subparagraph (A) shall be applied to the shareholders of that investment company as though they had exchanged with the other corporation all of their stock in the investment company for stock having a fair market value equal to the fair market value of their stock of the investment company immediately after the exchange.

(G) For purposes of subparagraphs (B) and (C), "securities" includes obligations of state and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940, 15 U.S.C. 80a-2(36).

(7) (A) A transaction shall fail to meet the requirements of paragraph (3) of subdivision (a), unless the acquired corporation distributes the stock, securities, and other properties it receives, as well as its other properties, in pursuance of the plan of reorganization. For purposes of the preceding sentence, if the acquired corporation is liquidated pursuant to the plan of

reorganization, any distribution to its creditors in connection with that liquidation shall be treated as pursuant to the plan of reorganization.

(B) The Franchise Tax Board may waive the application of subparagraph (A) to any transaction subject to any conditions the Franchise Tax Board may prescribe.

(8) In the case of any transaction with respect to which the requirements of subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 24531 are met, for purposes of determining whether the transaction qualifies under paragraph (4) of subdivision (a), the term "control" has the meaning given to that term by Section 304(c) of the Internal Revenue Code.

(c) The amendments made to this section by the 1971 First Extraordinary Session of the Legislature shall apply to statutory mergers occurring after December 31, 1970.

(d) (1) For purposes of this chapter, "Title 11 or similar case" means—

(A) A case under Title 11 of the United States Code, to the extent this chapter is not in conflict with Section 346(q) (17) (C) of Title 11, or

(B) A receivership, foreclosure, or similar proceeding in a federal or state court.

(2) In applying paragraph (7) of subdivision (a), a transfer of the assets of a corporation shall be treated as made in a Title 11 or similar case only if both of the following apply:

(A) Any party to the reorganization is under the jurisdiction of the court in that case.

(B) The transfer is pursuant to a plan of reorganization approved by the court.

(3) If a transaction (but for this paragraph) qualifies both—

(A) Under paragraph (7) of subdivision (a), and

(B) Under any other paragraph of subdivision (a) or under Section 24502 or 24521,

then, for purposes of this chapter (other than Section 24540(c) (1)), the transaction shall be treated as qualifying only under paragraph (7) of subdivision (a).

(4) For purposes of paragraphs (1) and (2), in the case of a receivership, foreclosure, or similar proceeding before a federal or state agency involving a financial institution to which Section 581 or 591 of the Internal Revenue Code applies, the agency shall be treated as a court.

(5) In the case of a Title 11 or similar case, the requirement of subparagraph (B) of paragraph (5) of subdivision (b) shall be treated as met if both of the following apply:

(A) No former shareholder of the surviving corporation received any consideration for his or her stock.

(B) The former creditors of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, debt of the surviving corporation which had a fair market value equal to 80

percent or more of the total fair market value of the debt of the surviving corporation.

(6) (A) For purposes of paragraphs (1) and (2), in the case of a financial institution to which Section 593 of the Internal Revenue Code applies, the term "Title 11 or similar case" means only a case in which the board (which will be treated as the court in such case) makes the certification described in subparagraph (B).

(B) A transaction otherwise meeting the requirements of paragraph (7) of subdivision (a), in which the transferor corporation is a financial institution to which Section 593 of the Internal Revenue Code applies, will not be disqualified as a reorganization if no stock or securities of the corporation to which the assets are transferred are received or distributed, but only if all of the following conditions are met:

(i) The requirements of subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 24531 are met with respect to the acquisition of the assets,

(ii) Substantially all of the liabilities of the transferor immediately before the transfer become, as a result of the transfer, liabilities of the transferee, and

(iii) The board certifies that the grounds set forth in Section 1464(d)(6)(a)(i), (ii), or (iii) of Title 12, United States Code, exist with respect to the transferor or will exist in the near future in the absence of action by the board.

(C) For purposes of this subdivision, "board" means the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation or, if neither has supervisory authority with respect to the transferor, the equivalent state authority.

(D) This paragraph shall not apply to acquisitions after December 31, 1988, nor to income years beginning after December 31, 1988.

SEC. 38. Section 24580 of the Revenue and Taxation Code is amended to read:

24580. (a) The Franchise Tax Board is authorized to prescribe such regulations as may be necessary or appropriate to determine whether an interest in a corporation is to be treated for purposes of this part and Part 10 (commencing with Section 17001), as stock or indebtedness (or as in part stock and in part indebtedness).

(b) The regulations prescribed under this section shall set forth factors which are to be taken into account in determining with respect to a particular factual situation whether a debtor-creditor relationship exists or a corporation-shareholder relationship exists. The factors so set forth in the regulations may include among other factors:

(1) Whether there is a written unconditional promise to pay on demand or on a specified date a sum certain in money in return for an adequate consideration in money or money's worth, and to pay a fixed rate of interest,

(2) Whether there is subordination to or preference over any indebtedness of the corporation,

(3) The ratio of debt to equity of the corporation,

(4) Whether there is convertibility into the stock of the corporation, and

(5) The relationship between holdings of stock in the corporation and holdings of the interest in question.

SEC. 38.5. Section 24592 of the Revenue and Taxation Code is amended to read:

24592. (a) 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.

(b) The provisions of Section 621 (f) of Public Law 99-514, relating to the effective dates for limitations on net operating loss carryforwards, as amended by Section 1006 (d) of Public Law 100-647, shall apply.

(c) For income years beginning on or after January 1, 1987, the provisions of Section 10225 of Public Law 100-203, relating to amendments to Section 382, shall be applicable.

(d) (1) The amendments to Section 382 of the Internal Revenue Code made by Section 4012 of Public Law 100-647, relating to the extension and modification of provisions relating to financial institutions, shall not apply.

(2) The amendments to Section 382 of the Internal Revenue Code made by Section 1401 (a) (2) of Public Law 101-73, relating to early termination of special reorganization rules for financial institutions, shall not apply.

(e) The provisions of Section 6277 of Public Law 100-647, relating to the application of net operating loss limitations to bankruptcy reorganizations, shall apply.

(f) The provisions of Section 7205 (c) of Public Law 101-239, relating to the effective date of limitations on the threshold requirement under Section 382 built-in gain and loss provisions, shall apply.

(g) The provisions of Section 7304 (d) (2) of Public Law 101-239, relating to the effective date of special rules relating to net operating losses, shall apply.

SEC. 39. Section 24601 of the Revenue and Taxation Code is amended to read:

24601. The provisions of Sections 404, 404A, 406, 407, 419, and 419A of the Internal Revenue Code, relating to deferred compensation, etc., shall apply, except as otherwise provided.

SEC. 39.5. Section 24652 of the Revenue and Taxation Code is amended 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. 40. Section 24667 of the Revenue and Taxation Code is amended to read:

24667. (a) (1) Installment sales shall be treated in accordance

with Sections 453, 453A, and 453B of the Internal Revenue Code, except as otherwise provided.

(2) The provisions of Sections 811(c)(2), 811(c)(4), 811(c)(6), and 811(c)(7) of Public Law 99-514, as modified by Section 1008(f) of Public Law 100-647, shall apply to income years beginning on or after January 1, 1988.

(3) The provisions of Section 812 of Public Law 99-514, relating to the disallowance of use of the installment method for certain obligations, as modified by Section 1008(g) of Public Law 100-647, shall apply to income years beginning on or after January 1, 1988.

(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 the first income year beginning after December 31, 1987, and all of the following shall apply:

(1) That change shall be treated as initiated by 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.

(d) The repeal of Section 453C of the Internal Revenue Code by Section 10202(a) of Public Law 100-203, relating to repeal of the proportionate disallowance of the installment method, shall apply to dispositions on or after January 1, 1990, in income years beginning on or after January 1, 1990.

(e) (1) In the case of any installment obligations to which Section 453(l)(2)(B) of the Internal Revenue Code applies, in lieu of the provisions of Section 453(l)(3)(A) of the Internal Revenue Code, the "tax" (as defined by subdivision (a) of Section 23036) for any income year for which payment is received on that obligation shall be increased by the amount of interest determined in the manner provided under Section 453(1)(3)(B) of the Internal Revenue Code.

(2) The provisions of Sections 10202 and 10204 of Public Law 100-203, are modified to provide for each of the following:

(A) The provisions of Section 10202 shall apply to dispositions in income years beginning on or after January 1, 1990.

(B) The provisions of Section 10204 shall apply to costs incurred in income years beginning on or after January 1, 1990.

(C) Any adjustments required by Section 481 of the Internal Revenue Code shall be included in gross income as follows:

(i) Fifty percent in the first income year beginning on or after January 1, 1990.

(ii) Fifty percent in the second income year beginning on or after

January 1, 1990.

(f) (1) The amendments to Section 453A of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to special rules for nondealers, shall apply to income years beginning on or after January 1, 1990.

(2) In the case of any installment obligation to which Section 453A of the Internal Revenue Code applies and which is outstanding as of the close of the income year, in lieu of the provisions of Section 453A(c)(1) of the Internal Revenue Code, the "tax" (as defined by subdivision (a) of Section 23036) for the income year shall be increased by the amount of interest determined in the manner provided under Section 453A(c)(2) of the Internal Revenue Code.

(3) The provisions of Section 453A(c)(3)(B) of the Internal Revenue Code, relating to the maximum rate used in calculating the deferred tax liability, are modified to refer to the maximum rate of tax imposed under Section 23151, 23186, or 23802, whichever applies, in lieu of the maximum rate of tax imposed under Section 1 or 11 of the Internal Revenue Code.

SEC. 41. Section 24673.2 of the Revenue and Taxation Code is amended 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) (1) The provisions of Section 804(d) of Public Law 99-514, relating to the effective date of modifications in the method of accounting for long-term contracts, shall be applicable to income years beginning on or after January 1, 1987.

(2) 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 correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between state and federal law for the income year in which the contract began.

(c) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 10203 of Public Law 100–203, relating to a reduction in the percentage of items taken into account under the completed contract method, shall apply to income years beginning on or after January 1, 1990.

(2) In the case of a contract entered into after October 13, 1987, during an income year beginning before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between state and federal law for income years beginning prior to January 1, 1990.

(d) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 5041 of Public Law 100–647, relating to a reduction in the percentage of items taken into account under the

completed contract method, shall apply to income years beginning on or after January 1, 1990.

(2) In the case of a contract entered into after June 20, 1988, during an income year beginning before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between state and federal law for income years beginning prior to January 1, 1990.

(e) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 7621 of Public Law 101-239, relating to the repeal of the completed contract method of accounting for long-term contracts, shall apply to income years beginning on or after January 1, 1990.

(2) In the case of a contract entered into after July 10, 1989, during an income year beginning on or before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between state and purposes of this part, resulting from differences between state and federal law for income years beginning prior to January 1, 1990.

(f) For purposes of applying Section 460(a)(2) of the Internal Revenue Code, relating to 90 percent look-back method, any adjustment to income computed under paragraph (2) of subdivision (b), (c), (d), or (e) shall be deemed to have been reported in the income year from which the adjustment arose, rather than the income year in which the contract was completed.

SEC. 41.5. Section 24681 of the Revenue and Taxation Code is amended 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, except as otherwise provided.

SEC. 41.7. Section 24685 of the Revenue and Taxation Code is repealed.

SEC. 41.8. Section 24685 is added to the Revenue and Taxation Code, to read:

24685. (a) In the case of any taxpayer who elected to have Section 463 of the Internal Revenue Code apply for that taxpayer's last income year beginning prior to January 1, 1990, and who is required to change its method of accounting by reason of the amendments made by the act adding this section, each of the following shall apply:

(1) The change shall be treated as initiated by the taxpayer.

(2) The change shall be treated as having been made with the consent of the Franchise Tax Board.

(3) The net amount of adjustments required by Chapter 13 (commencing with Section 24631) to be taken into account by the taxpayer:

(A) Shall be reduced by the balance in the suspense account, under Section 463(c) of the Internal Revenue Code as of the close of the last income year beginning before January 1, 1990, and

(B) Shall be taken into account over the two income year period beginning with the income year following that last income year, as follows:

In the case of the:	The percentage to be taken into account is:
1st Year	50
2nd Year	50

(b) Notwithstanding subparagraph (B) of paragraph (3) of subdivision (a), if the period during which the adjustments are required to be taken into account under Chapter 13 (commencing with Section 24631) is less than two years, those adjustments shall be taken into account ratably over the shorter period.

SEC. 41.9. Section 24692 of the Revenue and Taxation Code is amended to read:

24692. (a) 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.

(b) For purposes of this part, the provisions of Section 469(d)(2) of the Internal Revenue Code, relating to passive activity credits, are modified to refer to the following credits:

(1) The credit for research expenses allowed by Section 23609.

(2) The credit for clinical testing expenses allowed by Section 23609.5.

(3) The credit for low-income housing allowed by Section 23610.5.

(4) The credit for certain wages paid (targeted jobs) allowed by Section 23621.

(c) For purposes of applying the provisions of Section 469(i) of the Internal Revenue Code, relating to the twenty-five thousand dollars ($25,000) offset for rental real estate activities, the dollar limitation for the credit allowed under Section 23610.5 (relating to low-income housing) shall be equal to seventy-five thousand dollars ($75,000) in lieu of the amount specified in Section 469(i)(2) of the Internal Revenue Code.

(d) Section 502 of the Tax Reform Act of 1986 (Public Law 99-514) shall apply.

(e) For income years beginning on or after January 1, 1987, the provisions of Section 10212 of Public Law 100-203, relating to treatment of publicly traded partnerships under Section 469 of the Internal Revenue Code, shall be applicable.

(f) The amendments to Section 469(k) of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to separate application of section in case of publicly traded partnerships, shall apply to income years beginning on or after January 1, 1990.

SEC. 42. Section 24941 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 24941 is added to the Revenue and Taxation Code, to read:

24941. The provisions of Section 1031 of the Internal Revenue Code, relating to exchange of property held for productive use or investment, shall apply.

SEC. 44. Section 24950 of the Revenue and Taxation Code is repealed.

SEC. 45. Section 24950 is added to the Revenue and Taxation Code, to read:

24950. The provisions of Section 1035 of the Internal Revenue Code, relating to certain exchanges of insurance policies, shall apply.

SEC. 46. Section 24951 of the Revenue and Taxation Code is repealed.

SEC. 47. Section 24951 is added to the Revenue and Taxation Code, to read:

24951. The provisions of Section 1036 of the Internal Revenue Code, relating to stock for stock of same corporation, shall apply.

SEC. 47.5. Section 24990.5 of the Revenue and Taxation Code is amended to read:

24990.5. (a) Section 1201 of the Internal Revenue Code, relating to alternative tax for corporations, shall not be applicable.

(b) The provisions of Section 1212 of the Internal Revenue Code, relating to capital loss carrybacks and carryovers, are modified as follows:

(1) Section 1212(a)(1)(A) of the Internal Revenue Code, relating to capital loss carrybacks, shall not apply.

(2) Section 1212(a)(3) of the Internal Revenue Code, relating to special rules on carrybacks, shall not apply.

(3) Sections 1212(b) and 1212(c) of the Internal Revenue Code, relating to taxpayers other than a corporation, shall not apply.

SEC. 47.7. Section 24993 of the Revenue and Taxation Code is amended to read:

24993. (a) 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.

(b) Section 307 of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101-179) shall not apply for purposes of this part.

SEC. 48. Section 25901c of the Revenue and Taxation Code is amended to read:

25901c. (a) Except as provided in Section 25903, interest shall be imposed under this article with respect to any assessable penalty as provided in this section.

(b) In the case of a penalty which, when assessed, is due and payable on notice and demand, other than a penalty imposed under Section 25931 (relating to failure to file a return on or before the due date), Section 25934.2 (relating to underpayment of tax), or Section

25935 (relating to imposition of the accuracy-related penalty), interest shall be imposed from the date of the notice and demand to the date of payment.

(c) In the case of a penalty which is initially assessed as a deficiency, other than a penalty imposed under Section 25931 (relating to failure to file a return on or before the due date), Section 25934.2 (relating to underpayment of tax),or Section 25935 (relating to imposition of the accuracy-related penalty), interest shall be imposed from the date of the notice of proposed assessment to the date of payment.

(d) Interest shall be imposed under this article with respect to any penalty imposed by Section 25931 (relating to failure to file a return on or before the due date), Section 25934.2 (relating to underpayment of tax), or Section 25935 (relating to imposition of the accuracy-related penalty) for the period which—

(1) Begins on the date on which the return of the tax with respect to which that penalty is imposed is required to be filed (including any extensions), and

(2) Ends on the date of payment of that addition to tax.

(e) The amendments to subdivision (d) made by Chapter 1352 of the Statutes of 1989, shall apply only to returns the due date for which, determined without regard to extensions, is after December 31, 1988.

SEC. 49. Section 25931 of the Revenue and Taxation Code is amended to read:

25931. (a) If any taxpayer fails to make and file a return required by this part on or before the due date of the return or the due date as extended by the Franchise Tax Board, then, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, 5 percent of the tax shall be added to the tax for each month or fraction thereof elapsing between the due date of the return and the date on which filed, but the total addition shall not exceed 25 percent of the tax. In the case of a commencing corporation, the penalty shall apply to all tax accruable on the due date of the return. The amount so added to the tax shall be due and payable upon notice and demand from the Franchise Tax Board.

(b) If any failure to file any return is fraudulent, subdivision (a) shall be applied by:

(1) Substituting "15 percent" for "5 percent," and

(2) Substituting "75 percent" for "25 percent."

SEC. 50. Section 25934 of the Revenue and Taxation Code is repealed.

SEC. 51. Section 25934.4 of the Revenue and Taxation Code is repealed.

SEC. 52. Section 25935 is added to the Revenue and Taxation Code, to read:

25935. (a) An accuracy-related penalty shall be imposed under this part and shall be determined in accordance with the provisions of Section 6662 of the Internal Revenue Code, relating to imposition

of accuracy-related penalty.

(b) A fraud penalty shall be imposed under this part and shall be determined in accordance with the provisions of Section 6663 of the Internal Revenue Code, relating to imposition of fraud penalty.

(c) The provisions of Section 6664 of the Internal Revenue Code, relating to definitions and special rules, shall apply.

(d) The provisions of Section 6665 of the Internal Revenue Code, relating to applicable rules, shall apply.

SEC. 53. Section 25940 is added to the Revenue and Taxation Code, to read:

25940. (a) The provisions of Section 6038A of the Internal Revenue Code, relating to information with respect to certain foreign-owned corporations, shall apply.

(b) A penalty shall be imposed under this part for failure to furnish information or maintain records and that penalty shall be determined in accordance with the provisons of Section 6038A of the Internal Revenue Code.

(c) For purposes of this part, the information required to be filed with the Franchise Tax Board shall be a copy of the information filed with the Internal Revenue Service.

SEC. 54. Sections 7801 to 7894, inclusive, of the Revenue Reconciliation Act of 1989 (Title VII of Public Law 101-239) enacted numerous technical corrections to provisions of the Internal Revenue Code, the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647), the Revenue Act of 1987 (Title X of Public Law 100-203), and the Tax Reform Act of 1986 (Public Law 99-514), some of which are incorporated by specific reference into Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code. Unless otherwise provided, the technical corrections described in the preceding sentence, to the extent that they correct provisions that are incorporated by specific reference into the Revenue and Taxation Code, are declaratory of existing law and shall be applied in the same manner as specified in the Revenue Reconciliation Act of 1989.

SEC. 55. (a) Notwithstanding any other provision of law, the Controller shall transfer from the Retail Sales Tax Fund to the Disaster Relief Fund established by Section 16419 of the Government Code an amount equal to the revenues attributable to that portion of the sales and use tax rate in excess of 4¾ percent pursuant to Sections 6051.1 and 6201.1 of the Revenue and Taxation Code derived from the imposition of the tax from November 7, 1990, to December 31, 1990, inclusive.

(b) This section shall become operative only if the initiative entitled the "Safe Streets Act of 1990" is approved by the voters at the November 6, 1990, general election.

(c) 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. 56. Unless otherwise specifically provided in this act, the provisions of this act shall apply in the computation of taxes for taxable and income years beginning on and after January 1, 1990, even if the initiative entitled "The Comprehensive Crime Reduction and Drug Control Act of 1990" is approved by the voters at the November 6, 1990, general election.

SEC. 57. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 453

An act to add Chapter 3.3 (commencing with Section 6261) to Part 1 of Division 2 of the Revenue and Taxation Code, relating to vehicles, to take effect immediately, tax levy.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Chapter 3.3 (commencing with Section 6261) is added to Part 1 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 3.3. VEHICLE SMOG IMPACT FEE

6261. The Legislature finds and declares as follows:

(a) Motor vehicles certified to meet California air quality standards (California-certified vehicles) are generally significantly more costly than otherwise equivalent vehicles sold elsewhere.

(b) Motor vehicles generally are a major cause of poor air quality. However, California-certified vehicles have a less deleterious impact on air quality than other vehicles because California-certified vehicles are less polluting. Poor air quality imposes substantial costs on health services and other General Fund programs.

(c) Drivers of California-certified vehicles, in addition to higher vehicle acquisition costs, pay an added penalty because California-certified vehicles generally achieve lower fuel economy, resulting in a higher motor vehicle fuel tax burden.

(d) In order to ensure equity between owners of California-certified vehicles and other vehicles, and to promote good health and safety standards for the residents of this state, it is appropriate to enact a motor vehicle smog impact fee on non-California certified vehicles.

6262. (a) In addition to any other fees and taxes required to be paid by the Vehicle Code and this code at the time of the registration of a motor vehicle, as defined in Section 415 of the Vehicle Code, a person making application to register a motor vehicle shall pay to the

Department of Motor Vehicles a vehicle smog impact fee of three hundred dollars ($300) for any motor vehicle which, immediately prior to the date of application, was registered outside this state, unless the motor vehicle has been certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of the Health and Safety Code. This subdivision does not authorize the registration of motor vehicles which are prohibited from being brought into this state pursuant to Article 1.5 (commencing with Section 43150) of Chapter 2 of Part 5 of the Health and Safety Code.

(b) All revenues received pursuant to this section shall be deposited in the General Fund.

(c) This section does not apply to a commercial vehicle, as defined in Section 260 of the Vehicle Code, with an unladen weight in excess of 6,000 pounds.

(d) Notwithstanding any other provision of law, the fee imposed pursuant to subdivision (a) is imposed pursuant to the Sales and Use Tax Law.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect. However, this act shall become operative on the first day of the first month commencing more than 90 days after the effective date of this act.

CHAPTER 454

An act to add Section 16304.2 to the Government Code, relating to capital outlay, and making an appropriation therefor.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990]

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

SECTION 1. Section 16304.2 is added to the Government Code, to read:

16304.2. Notwithstanding Section 16304, any capital outlay appropriation enacted on or after July 1, 1987, from a fund created by a general obligation bond act approved by the voters for a project which was, or is, subsequently delayed as a result of litigation, is, and shall be, hereby reappropriated for an additional three years, commencing with the operative date of the statute adding this section, or upon the expiration of the original period of encumbrance, whichever is later.

CHAPTER 455

An act to add Section 13308 to the Government Code, to amend Sections 11453 and 12201 of, and to add Sections 12303.51, 14029, and 16702.01 to, the Welfare and Institutions Code, relating to reductions in state appropriations.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 13308 is added to the Government Code, to read:

13308. (a) The Director of Finance shall provide to the Legislature, on or before May 21 of each year, an estimate of the general fund revenues for the ensuing fiscal year and an estimate of general fund workload budget for the ensuing fiscal year.

(b) If the estimate of general fund revenues is more than .5 percent less than the estimated general fund workload budget, and the director so certifies to the Commission on State Finance, adjustments shall be made to general fund appropriations pursuant to subdivision (c) on July 1 of the ensuing fiscal year if the Commission on State Finance certifies the general accuracy of the estimates. If the commission fails to make the certification within 14 days of receiving the estimates and does not submit its reasons for refusing to do so to the Legislature and Governor in writing within the 14-day period, it shall be deemed to have certified the estimates.

(c) If the estimates are certified by the Commission on State Finance or are deemed to be certified pursuant to subdivision (b), appropriations from the general fund, except appropriations required by operation of the Constitution, shall be reduced by the same percentage as the difference between estimated general fund revenues and the projected general fund workload budget, on a pro rata basis.

(d) Notwithstanding any other provision of law, in the event a general fund appropriation which is reduced pursuant to subdivision (c) is for a program under which individuals other than an officer or employee of the state receive an amount determined pursuant to statute, whether that amount is an entitlement or not, that amount shall be reduced by the same percentage as the general fund appropriation from which that payment is made is reduced.

(e) The total amount of any reduction in any general fund appropriation pursuant to this section in any fiscal year shall not exceed four percent of the appropriation being reduced.

(f) The Legislature may suspend the operation of this section for a fiscal year in which general fund appropriations would otherwise be reduced pursuant to subdivision (c). The suspension may be in the Budget Act.

SEC. 2. Section 11453 of the Welfare and Institutions Code is amended to read:

11453. The amounts set forth in Section 11452 and subdivision (a) of Section 11450 shall be adjusted annually by the department to reflect any increases or decreases in the cost of living occurring after December 1982, so that the first such adjustment becomes effective July 1, 1984, and subsequent adjustments shall take effect each July 1 thereafter. The cost-of-living adjustment shall be calculated by the Commission on State Finance based on the changes in the California Necessities Index, which as used in this section means the weighted average changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(a) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$1,832
Clothing (Apparel and Upkeep)	298
Fuel and other utilities	264
Rent, residential	2,303
Transportation	1,026
Total	$5,723

(b) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(c) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(d) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in subdivision (b) and (2) dividing the sum by 100.

(e) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in

subdivision (d).

(f) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in subdivision (d) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

The overall adjustment factor determined by the preceding computation steps shall be multiplied by the schedules established pursuant to Section 11452 and subdivision (a) of Section 11450 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules which shall be filed with the Secretary of State.

Notwithstanding any other provision of this section, on July 1 of any fiscal year for which general fund appropriations are reduced pursuant to subdivision (c) of Section 13308 of the Government Code, the amount otherwise payable under Section 11452, subdivision (a) of Section 11450, and this section shall be reduced by an amount equal to the amount otherwise payable, multiplied by the percentage reduction in general fund appropriations pursuant to subdivision (c) of Section 13308 of the Government Code. In no event, shall the reduction under this paragraph exceed 4 percent of the amount otherwise payable or the amount of any cost-of-living increase otherwise payable, whichever is less.

SEC. 3. Section 12201 of the Welfare and Institutions Code is amended to read:

12201. The payment schedules to go into effect January 1, 1985, and on January 1 of each year thereafter, shall be the amounts set forth for January 1, 1984, in Section 12200, as adjusted to reflect any increases or decreases in the cost of living occurring after December 31, 1982. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(a) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$1,832
Clothing (apparel and upkeep)	298
Fuel and other utilities	264
Rent, residential	2,303
Transportation	1,026
Total	$5,723

(b) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage

change shall be determined for the 12-month period which ends 12 months prior to the January in which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(c) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(d) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in subdivision (b) and (2) dividing the sum by 100.

(e) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in subdivision (d).

(f) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in subdivision (d) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

The overall adjustment factor determined by the preceding computational steps shall be multiplied by the payment schedules established pursuant to Section 12200 as are in effect during the month of December preceding the calendar year in which the adjustments are to occur, and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules for the categories given under subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 12200, and shall be filed with the Secretary of State. The amount as set forth in subdivision (h) of Section 12200 shall be adjusted annually pursuant to this section in the event that the secretary agrees to administer payment under that subdivision. The payment schedule for subdivision (i) of Section 12200 shall be computed as specified, based on the new payment schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

The department shall adjust any amounts of aid under this chapter to ensure that the minimum level required by the Social Security Act in order to maintain eligibility for funds under Title XIX of that act is met.

Notwithstanding any other provision of this section, on July 1 of any fiscal year for which general fund appropriations are reduced pursuant to subdivision (c) of Section 13308 of the Government Code, the amount of aid otherwise payable under this chapter shall be reduced by an amount equal to the amount otherwise payable,

multiplied by the percentage reduction in general fund appropriations pursuant to subdivision (c) of Section 13308 of the Government Code. In no event, shall the reduction under this paragraph exceed 4 percent of the amount otherwise payable or the amount of any cost-of-living increase otherwise payable, whichever is less.

SEC. 4. Section 12303.51 is added to the Welfare and Institutions Code, to read:

12303.51. On July 1 of any fiscal year for which general fund appropriations are reduced pursuant to subdivision (c) of Section 13308 of the Government Code, the amount otherwise payable under this atricle shall be reduced by an amount equal to the amount otherwise payable, multiplied by the percentage reduction in general fund appropriations pursuant to subdivision (c) of Section 13308 of the Government Code. In no event, shall the reduction under this Section exceed 4 percent of the amount otherwise payable or the amount of any cost-of-living increase otherwise payable, whichever is less.

SEC. 5. Section 14029 is added to the Welfare and Institutions Code, to read:

14029. On July 1 of any fiscal year for which general fund appropriations are reduced pursuant to subdivision (c) of Section 13308 of the Government Code, the amounts otherwise payable to providers under this chapter shall be reduced by an amount equal to the amount otherwise payable, multiplied by the percentage reduction in general fund appropriations pursuant to subdivision (c) of Section 13308 of the Government Code. In no event, shall the reduction under this paragraph exceed 4 percent of the amount otherwise payable or the amount of any cost-of-living increase otherwise payable, whichever is less.

SEC. 6. Section 16702.01 is added to the Welfare and Institutions Code, to read:

16702.01. Notwithstanding any provision of Section 16702, on July 1 of any fiscal year for which general fund appropriations are reduced pursuant to subdivision (c) of Section 13308 of the Government Code, the amount otherwise payable under Section 16702 shall be reduced by an amount equal to the amount otherwise payable, multiplied by the percentage reduction in general fund appropriations pursuant to subdivision (c) of Section 13308 of the Government Code. In no event, shall the reduction under this paragraph exceed 4 percent of the amount otherwise payable.

CHAPTER 456

An act to amend Sections 11450, 11450.2, 11452, 11453, 11465, 12201, 12201.5, 13920, 13921, 14053.5, 14105.43, 14105.7, 14105.92, 14132, 14132d, and 14133.2 of, to add Section 12303.6 to, to add Article 3.7 (commencing with Section 14125) to Chapter 7 of Part 3 of Division 9 of, to add and repeal Sections 14105.31, 14105.33, 14105.37, 14105.39, 14105.405, and 14105.45 of, to repeal, add, and repeal Sections 14105.4, 14105.41, and 14105.42 of, and to repeal Section 14105.91 and Article 5.5 (commencing with Section 14180) of Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to public assistance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990]

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) (1) 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 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 that increase or decrease by the United States government, provided that no increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(2) The sums specified in paragraph (1) shall not be adjusted for cost of living for the 1990–91 fiscal year, nor shall that amount be included in the base for calculating any cost-of-living increases for the 1991–92 fiscal year or any fiscal year thereafter.

(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), if the mother, and child if born, would have qualified for aid under this chapter. Verification of pregnancy shall be required as a condition of eligibility for aid under this subdivision.

(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 that 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 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 11460, 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 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).

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

SEC. 2. Section 11450.2 of the Welfare and Institutions Code is amended to read:

11450.2. (a) The department shall implement a system to provide for supplemental payments to needy families qualified for aid under this chapter, when, because of a change in reported financial circumstances occurring between the "budget month" and the "payment month," a family's net available income for the payment month is less than 80 percent of the amount set forth in subdivisions (a) and (b) of Section 11450, as adjusted for cost-of-living increases pursuant to Section 11453, except as provided in subdivision (c) of Section 11453. The system shall provide all of the following:

(1) Families shall be informed of the availability of supplemental payments and of the necessity that a family request the payments in order for them to be provided. This information shall be provided in writing at the time of application in the written statements of recipients' rights, and shall also be provided orally by the eligibility worker at the time of the initial interview and at each annual redetermination. A request form shall be sent monthly to all families which have reported income.

(2) That supplemental payments shall be paid in an amount necessary to raise the family's net available income in the payment month to 80 percent of the amount set forth in subdivision (a) of Section 11450, as adjusted for cost-of-living increases pursuant to Section 11453, except as provided in subdivision (c) of Section 11453.

(3) That supplemental payments shall not be considered income when calculating the amount of the grant to be paid in future months.

(4) That supplemental payments or written notice of action shall be issued within seven working days of a request. Payments shall only be issued for those months in which a request has been made and a family is eligible for the supplement. A request shall be made in the month for which the supplemental payment is requested.

(5) That no supplemental payment shall be made to any family if, under the federal Aid to Families with Dependent Children program, the payments would be counted as income, regardless of the source of the funding for the aid payment of the family.

(6) That no overpayment or underpayment shall be determined for a supplemental payment which was correctly computed based on the family's reasonable estimate of the income and other circumstances for the payment month. A family shall not be eligible for more than one supplemental payment per month.

(b) For purposes of this section:

(1) "Budget month" and "payment month" shall be consistent

with the use of these terms in Section 11450.5.

(2) "Net available income" means the sum of the following:

(A) Total net nonexempt income in the payment month without deduction of either the thirty dollars ($30) plus one-third of earned income or the thirty dollars ($30) disregard deductions.

(B) Any child or spousal support received by the family pursuant to Section 602(a) (8) (A) (vi) of Title 42 of the United States Code and as that statute may hereafter be amended.

(C) The grant for the payment month before overpayment adjustments.

(3) "Needy family" means a family aided pursuant to this chapter. This includes a family that is in a single month of suspension resulting from the receipt of income.

(4) "Grant" means the amount of aid paid to the needy family pursuant to subdivision (a) of Section 11450, but does not include any amounts paid pursuant to subdivision (e) of Section 11450 or Section 11453.1.

SEC. 3. Section 11452 of the Welfare and Institutions Code is amended to read:

11452. (a) (1) 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 ensure:

(A) Safe, healthful housing.

(B) Minimum clothing for health and decency.

(C) Low-cost adequate food budget meeting recommended dietary allowances of the National Research Council.

(D) Utilities.

(E) Other items including household operation, education and incidentals, recreation, personal needs, and insurance.

(F) Allowance for essential medical, dental, or other remedial care to the extent not otherwise provided at public expense.

(2) 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.

(3) (A) No adjustment shall be made under this section for the 1990–91 fiscal year to reflect any change in the cost of living.

(B) Any cost-of-living adjustment under this section for the 1991–92 fiscal year and any fiscal year thereafter pursuant to Section 11453 shall not include any adjustment to reflect increases for the cost of living for the 1990–91 fiscal year.

(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. 4. Section 11453 of the Welfare and Institutions Code is amended to read:

11453. (a) The amounts set forth in Section 11452 and subdivision (a) of Section 11450 shall be adjusted annually by the department to reflect any increases or decreases in the cost of living occurring after December 1982, so that the first such adjustment becomes effective July 1, 1984, and subsequent adjustments shall take effect each July 1 thereafter. The cost-of-living adjustment shall be calculated by the Commission on State Finance based on the changes in the California Necessities Index, which as used in this section means the weighted average changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$1,832
Clothing (apparel and upkeep)	298
Fuel and other utilities	264
Rent, residential	2,303
Transportation	1,026
Total	$5,723

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the

Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

(b) The overall adjustment factor determined by the preceding computation steps shall be multiplied by the schedules established pursuant to Section 11452 and subdivision (a) of Section 11450 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules which shall be filed with the Secretary of State.

(c) (1) No adjustment shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91 fiscal year to reflect any change in the cost of living.

(2) Adjustments for the 1991–92 fiscal year and fiscal years thereafter pursuant to this section shall not include any adjustment to reflect increases for the cost of living for the 1990–91 fiscal year.

SEC. 5. Section 11465 of the Welfare and Institutions Code is amended to read:

11465. (a) When a child is living with a parent who receives AFDC-FC benefits, the rate paid to the provider on behalf of the parent shall include an amount for care and supervision of the child.

(b) For each category of eligible licensed community care facility, as defined in Section 1502 of the Health and Safety Code, the department shall adopt regulations setting forth a uniform rate to cover the cost of care and supervision of the child in each category of eligible licensed community care facility.

(c) (1) Subject to the availability of funds, for the 1989–90 fiscal year and annually thereafter, these rates shall be adjusted for cost of living pursuant to procedures in Section 11453.

(2) No adjustment shall be made under this section for the 1990–91 fiscal year to reflect any change in the cost of living.

(3) Any cost-of-living adjustment under this section for the

1991–92 fiscal year and any fiscal year thereafter pursuant to Section 11453 shall not include any adjustment to reflect increases for the cost of living for the 1990–91 fiscal year.

SEC. 6. Section 12201 of the Welfare and Institutions Code is amended to read:

12201. (a) The payment schedules to go into effect January 1, 1985, and on January 1 of each year thereafter, shall be the amounts set forth for January 1, 1984, in Section 12200, as adjusted to reflect any increases or decreases in the cost of living occurring after December 31, 1982. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$1,832
Clothing (apparel and upkeep)	298
Fuel and other utilities	264
Rent, residential	2,303
Transportation	1,026
Total	$5,723

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period which ends twelve months prior to the January in which the cost-of-living adjustment will take effect, for each expenditure category specified in paragraph (1) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in paragraph (1) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year

by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in paragraph (4) for the prior year.

(b) The overall adjustment factor determined by the preceding computational steps shall be multiplied by the payment schedules established pursuant to Section 12200 as are in effect during the month of December preceding the calendar year in which the adjustments are to occur, and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules for the categories given under subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 12200, and shall be filed with the Secretary of State. The amount as set forth in subdivision (h) of Section 12200 shall be adjusted annually pursuant to this section in the event that the secretary agrees to administer payment under that subdivision. The payment schedule for subdivision (i) of Section 12200 shall be computed as specified, based on the new payment schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

(c) The department shall adjust any amounts of aid under this chapter to insure that the minimum level required by the Social Security Act in order to maintain eligibility for funds under Title XIX of that act is met.

(d) (1) No adjustment shall be made under this section for the 1990–91 fiscal year to reflect any change in the cost of living.

(2) Any cost-of-living adjustment under this section for the 1991–92 fiscal year and any fiscal year thereafter pursuant to Section 11453 shall not include any adjustment to reflect increases for the cost of living for the 1990–91 fiscal year.

SEC. 7. Section 12201.5 of the Welfare and Institutions Code is amended to read:

12201.5. Notwithstanding the provisions of Section 12200, the amount applicable under that section to a disabled minor residing in a nonmedical out-of-home facility with a nonrelative guardian shall be the amount specified in subdivision (g) of that section, as adjusted for cost of living pursuant to Section 12201, except as provided in subdivision (d) of Section 12201.

SEC. 8. Section 13920 of the Welfare and Institutions Code is amended to read:

13920. For a person living in a nonmedical out-of-home care facility the department may establish varying allowances for room, board and care, provided that the minimum allowance shall not be less than four hundred five dollars ($405) per month and the amount so established shall be subject to the provisions set forth in Section 12201. However, no cost-of-living adjustment shall be provided for the period from July 1, 1982, to September 30, 1982, inclusive, except to the extent funds may be provided therefor by the Budget Act of 1982. No cost-of-living adjustment shall be made for the 1990–91 fiscal

year. Any cost-of-living adjustment under this section for the 1991–92 fiscal year and any fiscal year thereafter shall not include any adjustment to reflect increases for the cost of living for the 1990–91 fiscal year.

The room, board, and care allowance established pursuant to this section does not include the personal and incidental needs established pursuant to Section 13921.

SEC. 9. Section 13921 of the Welfare and Institutions Code is amended to read:

13921. The department shall establish a range of amounts for the personal and incidental needs of recipients in out-of-home care under this chapter provided that the minimum amount for personal and incidental needs shall not be less than fifty-nine dollars ($59) per month and that the range of amounts so established shall be subject to the provisions set forth in Section 12201. No cost-of-living adjustment shall be made for the 1990–91 fiscal year. Any cost-of-living adjustment under this section for the 1991–92 fiscal year and any fiscal year thereafter shall not include any adjustment to reflect increases for the cost of living for the 1990–91 fiscal year.

SEC. 10. The Legislature finds and declares as follows:

(a) It is the intent of the Legislature to improve the health status of Medi-Cal beneficiaries at the least possible cost to the state.

(b) The Medi-Cal program is a large purchaser of drugs and should be entitled to employ usual business practices in securing drugs at discount prices.

(c) A customary business practice for drug manufacturers and distributors is to offer discount prices and rebates on drugs to their large volume purchasers, including other governmental agencies.

(d) In order to enable Medi-Cal to purchase drugs in the most cost-competitive manner and employ customary business practices, it is necessary to allow the State Department of Health Services to replace the Medi-Cal drug formulary with a list of contract drugs.

(e) It is the intent of the Legislature that the list of contract drugs contain a comprehensive mix of single-source and multiple-source drugs, sufficient to ensure beneficiary access to appropriate drug therapies.

(f) The Legislature intends that Medi-Cal beneficiaries have available a comprehensive range of drug products and hereby directs the department to favorably review manufacturers' requests for drug product addition when those requests are accompanied with an acceptable best price contract offer, and the drug product otherwise meets the five criteria enumerated in Section 14105.39(d).

(g) It is the intent of the Legislature that the department improve the telephone access of providers to the current drug treatment authorization process. The department intends to meet this objective by expanding the resources available to the field offices, consistent with proposals included in the Budget Act of 1990. These additional resources are intended to increase availability of field office staff to providers. The Legislature further intends that the

department respond to provider requests within 10 rings, or provide a secondary answering system to record provider calls. It is also intended that the department develop performance standards for responding to provider calls, consistent with the advances in technology the department is currently pursuing. In no event should these performance standards exceed eight working hours.

SEC. 11. Section 14053.5 of the Welfare and Institutions Code is amended to read:

14053.5. For the purposes of the Medi-Cal Act, the terms "prescribed drug" and "prescription drug" shall not include any drug which, because of differing prices charged by the manufacturer on a discriminatory basis or discriminatory refusal to sell by the manufacturer, or both, is not available on the same terms and conditions to all providers of prescription services, or any drug which is found to be overpriced in comparison to another drug which has an equivalent therapeutic effect, unless the director determines that the drug is vital to the program and no acceptable substitute is available.

Before the director determines that any drug has an equivalent therapeutic effect in comparison to another drug, or is vital to the program and no acceptable substitute is available, he must have received a report to that effect from the Medi-Cal Contract Drug Advisory Committee.

Nothing in this section shall be construed to apply to quantity or other nondiscriminatory discounts available on the same terms and conditions to all providers of prescription services, to sales by competitive bidding to federal, state or local governmental agencies, or to sales to wholesalers so long as the manufacturer does not require or induce the wholesalers to make the drug available other than on the same terms and conditions to all providers of prescription services.

This section shall not be construed to deny reimbursement to hospitals for prescribed drugs furnished to inpatients or, unless the regulations provide to the contrary, to registered outpatients.

SEC. 12. Section 14105.31 is added to the Welfare and Institutions Code, to read:

14105.31. For purposes of the Medi-Cal contract drug list, the following definitions shall apply:

(a) "Single-source drug" means a drug which is produced and distributed under an original New Drug Application approved by the federal Food and Drug Administration. This shall include a drug marketed by the innovator manufacturer and any cross-licensed producers or distributors operating under the New Drug Application. A drug ceases to be a single-source drug when the same drug in the same dosage form and strength manufactured by another manufacturer is approved by the federal Food and Drug Administration under the provisions for an Abbreviated New Drug Application.

(b) "Best price" means the negotiated price, or the

manufacturer's lowest price available to any class of trade organization or entity, including, but not limited to, wholesalers, retailers, hospitals, repackagers, providers, or governmental entities within the United States, which contracts with a manufacturer for a specified price for drugs, inclusive of cash discounts, free goods, volume discounts, rebates, and on- or off-invoice discounts or credits.

(c) "Equalization payment amount" means the amount negotiated between the manufacturer and the department for reimbursement by the manufacturer, as specified in the contract.

(d) "Manufacturer" means any person, partnership, corporation, or other institution or entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of drugs, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or in the packaging, repackaging, labeling, relabeling, and distribution of drugs.

(e) "Price escalator" means a mutually agreed upon price specified in the contract, to cover anticipated cost increases over the life of the contract.

(f) 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. 13. Section 14105.33 is added to the Welfare and Institutions Code, to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed.

(b) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed upon price escalators, as defined in that section. In no event shall the department require a manufacturer to provide a price lower than its lowest price to any class of trade, organization, or entity. The contracts shall provide for an equalization payment amount, as defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the equalization payment amount, based on utilization data from the department's prescription drug paid claims tapes.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract with all manufacturers who negotiate for a contract in a particular category. The department shall ensure that there is sufficient

representation of single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) (1) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(2) The department shall make every attempt to complete the initial contracting process for each major therapeutic category by January 1, 1994.

(e) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(f) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act, at Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(g) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to detemine if an appropriate substitute medication is available from Medi-Cal.

(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. 14. Section 14105.35 is added to the Welfare and Institutions Code, to read:

14105.35. (a) (1) Drugs included on the Medi-Cal drug formulary as of July 1, 1990, shall be included on the list of contract drugs until the department and the manufacturer have concluded contract negotiations with _____. The department shall retain that manufacturer's single source drug products on the list of contract drugs for the effective term of the contract. The department shall favorably review a manufacturer's best price contract offer which agrees to provide the drug at the manufacturer's best price available to any class of trade, organization, or entity, based upon the manufacturer's commonly used package sizes for the drug. Should the manufacturer not agree to execute a contract for a drug at the manufacturer's best price, the deparment may suspend from the list of contract drugs the manufacturer's single-source drug in question, for a period of at least 180 days. The department shall lift the suspension upon execution of a contract for that drug.

(2) The director may retain a drug on the Medi-Cal formulary as of January 1, 1991, on the list of contract drugs after January 1, 1991,

even if no contract is executed with a manufacturer, if the director determines that an essential need exists for that drug, and there are no other drugs currently on the formulary that meet that need.

(3) The director may remove a drug on the Medi-Cal formulary as of January 1, 1991, from the list of contract drugs if the director determines that the drug presents problems of safety or misuse.

(b) Any reference to the Medi-Cal drug formulary by statute or regulation shall be construed as referring to the list of contract drugs.

(c) (1) Any drug in the process of being added to the formulary by contract agreement pursuant to Section 14105.3, executed prior to January 1, 1991, shall be added to the list of contract drugs.

(2) Contracts pursuant to Section 14105.3 executed prior to January 1, 1991, shall be considered to be contracts executed pursuant to Section 14105.33, and the department shall exempt the drugs included in these contracts from the initial therapeutic category review in which they would normally be considered.

SEC. 15. Section 14105.37 is added to the Welfare and Institutions Code, to read:

14105.37. (a) The department shall notify each manufacturer of drugs in therapeutic categories selected pursuant to Section 14105.33 of the provisions of Sections 14105.31 to 14105.42, inclusive.

(b) If, within 30 days of notification, a manufacturer does not enter into negotiations for a contract pursuant to those sections, the department may delete from the list of contract drugs, or refuse to consider for addition, drugs of that manufacturer in the selected therapeutic categories.

(c) If, after 120 days from the initial notification, a contract is not executed for a drug currently on the list of contract drugs, the department may delete the drug from the list of contract drugs.

(d) If, within 120 days from the initial notification, a contract is executed for a drug currently on the list of contract drugs, the department shall retain the drug on the list of contract drugs.

(e) If, within 120 days from the date of the initial notification, a contract is executed for a drug not currently on the list of contract drugs, the department shall add the drug to the list of contract drugs.

(f) The department shall terminate all negotiations 120 days after the initial notification.

(g) The department may remove any drug from the list of contract drugs at the expiration of the contract term when the contract between the department and the manufacturer of that drug is terminated.

(h) Any drug suspended from the list of contract drugs pursuant to this section shall be subject to prior authorization, as if that drug were not on the list of contract drugs.

(i) Any drug suspended from the list of contract drugs pursuant to this section for at least 12 months may be deleted from the list of contract drugs in accordance with the provisions of Section 14105.38.

(j) 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. 16. Section 14105.38 is added to the Welfare and Institutions Code, to read:

14105.38. (a) (1) In the event the department determines a drug should be deleted from the list of contract drugs, the department shall conduct a public hearing, as provided in this section, to receive comment on the impact of removing the drug.

(2) (A) The department shall provide written notice 30 days prior to the hearing.

(B) The department shall send the notice required by this subdivision to the manufacturer of the drug proposed to be deleted and to organizations representing Medi-Cal beneficiaries.

(b) (1) The hearing panel shall consist of the Chief, Medi-Cal Discount Program, who shall serve as chair, and the Medi-Cal Contract Drug Advisory Committee.

(2) The hearing shall be recorded and transcribed, and the transcript available for public review.

(3) Subsequent to hearing all public comment, and within 30 days of the hearing, each panel member shall submit a recommendation regarding deletion of the drug and the reason for the recommendation to the director.

(c) The director shall consider public comments provided at the hearing and the recommendations of each panel member in determining whether to delete the drug.

(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. 17. Section 14105.39 is added to the Welfare and Institutions Code, to read:

14105.39. (a) (1) A manufacturer of a new single-source drug may request inclusion of its drug on the list of contract drugs pursuant to Section 14105.33 provided all of the following conditions are met:

(A) The request is made within 12 months of approval for marketing by the federal Food and Drug Administration.

(B) The manufacturer agrees to negotiate a contract with the department to provide the drug at the manufacturer's best price.

(C) The manufacturer provides the department with necessary information, as specified by the department, in the request.

(D) The department had concluded contracting for the therapeutic category in which the drug is included prior to approval of the drug by the federal Food and Drug Administration.

(2) Within 90 days from receipt of the request, the department shall evaluate the request using the criteria identified in subdivision (d).

(b) Any petition for the addition to or deletion of a drug to the Medi-Cal drug formulary submitted prior to January 1, 1991, shall be deemed to be denied. A manufacturer who has submitted a petition deemed denied may request inclusion of that drug on the list of

contract drugs provided all of the following conditions are met:

(1) The manufacturer agrees to negotiate for a contract with the department to provide the drug at the manufacturer's best price.

(2) The manufacturer provides the department with necessary information, as specified by the department, in the request.

(3) The manufacturer submits the request to the department prior to March 1, 1991.

(c) Any new drug designated as having an important therapeutic gain and approved for marketing by the federal Food and Drug Administration on or after January 1, 1991, shall immediately be included on the list of contract drugs for a period of three years provided that all of the following conditions are met:

(1) The manufacturer offers the department its best price.

(2) The drug is typically administered in an outpatient setting.

(3) The drug is prescribed only for the indications and usage specified in the federal Food and Drug Administration approved labeling.

(4) The drug is determined by the director to be safe, relative to other drugs in the same therapeutic category on the list of contract drugs.

(d) (1) To ensure that the health needs of Medi-Cal beneficiaries are met consistent with the intent of this chapter, the department shall, when evaluating a decision to execute a contract, and when evaluating drugs for retention on, addition to, or deletion from, the list of contract drugs, use all of the following criteria:

(A) The safety of the drug.

(B) The effectiveness of the drug.

(C) The essential need for the drug.

(D) The potential for misuse of the drug.

(E) The cost of the drug.

(2) The deficiency of a drug when measured by one of these criteria may be sufficient to support a decision that the drug should not be added or retained, or should be deleted from the list. However, the superiority of a drug under one criterion may be sufficient to warrant the addition or retention of the drug, notwithstanding a deficiency in another criterion.

(e) (1) A manufacturer of single-source drugs denied a contract pursuant to this section or Section 14105.33 or 14105.37, may file an appeal of that decision with the director within 30 calendar days of the department's written decision.

(2) Within 30 calendar days of the manufacturer's appeal, the director shall request a recommendation regarding the appeal from the Medi-Cal Contract Drug Advisory Committee. The committee shall provide its recommendation in writing, within 30 calendar days of the director's request.

(3) The director shall issue a final decision on the appeal within 30 calendar days of the recommendation.

(f) Changes made to the list of contract drugs, including those made pursuant to Section 14105.37, shall become effective no sooner

than 30 days after publication of the changes in provider bulletins.

(g) Changes made to the list of contract drugs under this or any other section are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law.

(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. 18. Section 14105.4 of the Welfare and Institutions Code is repealed.

SEC. 19. Section 14105.4 is added to the Welfare and Institutions Code, to read:

14105.4. (a) The director shall appoint a Medi-Cal Contract Drug Advisory Committee for the purpose of providing scientific and medical analysis on drugs contained on the list of contract drugs. The duties of the committee shall be as follows:

(1) To review drugs in the Medi-Cal list of contract drugs and make written recommendations to the director as to the addition of any drug or the deletion of any drug from the list. These recommendations shall be in accordance with subdivision (d) of Section 14105.39.

(2) To review and report in writing to the director as to the comparative therapeutic effect of drugs in accordance with Section 14053.5.

(3) To prepare a fair, impartial, and independent recommendation in writing, regarding appeals from manufacturers made pursuant to subdivision (e) of Section 14105.39.

(4) (b) The committee shall consist of at least one representative from each of the following groups:

(A) Physicians.

(B) Pharmacists.

(C) Schools of pharmacy or pharmacologists.

(D) Med-Cal beneficiaries

(E) Members of the committee shall be reimbursed for necessary travel and other expenses incurred in the performance of official committee duties.

(2) A representative may be charged by the director if deemed necessary for his or her required expertise.

(d) The director shall notify the committee of the decisions made on the recommendations.

(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. 20. Section 14105.405 is added to the Welfare and Institutions Code, to read:

14105.405. (a) (1) A Medi-Cal beneficiary, within 90 days of

receipt of the director's notice to beneficiaries pursuant to subdivision (g) of Section 14105.33, informing them of the decision to delete or suspend a drug from the list of contract drugs, may request a fair hearing pursuant to Chapter 7 (commencing with Section 10950) of Part 2.

(b) (2) A beneficiary filing a fair hearing request regarding the deletion or suspension of a drug from the formulary shall be granted a treatment authorization request for that drug until a final decision is adopted by the director. Should the beneficiary seek judicial review of the director's decision, a treatment authorization request shall be granted for that drug until a final decision is issued by the court.

(c) (1) A Medi-Cal beneficiary, within one year of the directors' decision pursuant to Section 10959, may file a petition with the superior court, under the provisions of Section 1094.5 of the Code of Civil Procedure, praying for a review of both the legal and factual basis for the director's decision.

(2) The director shall be the sole respondent in these proceedings.

(d) Any Medi-Cal beneficiary injured as a result of being denied a drug which is determined to be medically necessary may sue for injunctive or declaratory relief to review the director's decision to delete or suspend a drug from the list of contract drugs.

(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. 21. Section 14105.41 of the Welfare and Institutions Code is repealed.

SEC. 22. Section 14105.41 is added to the Welfare and Institutions Code, to read:

14105.41. (a) Moneys accruing to the department from contracts executed pursuant to Section 14105.33 shall be deposited in the Health Care Deposit Fund, and shall be subject to appropriation by the Legislature.

(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. 23. Section 14105.42 of the Welfare and Institutions Code is repealed.

SEC. 24. Section 14105.42 is added to the Welfare and Institutions Code, to read:

14105.42. (a) The department shall report to the Legislature after the first three major therapeutic categories have been reviewed and contracts executed. The report shall include the estimated savings, number of manufacturers entering negotiations, number of contracts executed, number of drugs added and deleted, and impact on Medi-Cal beneficiaries and providers.

(b) The department shall provide the following data to the legislature and to the Auditor General by January 1, 1991 and every six months thereafter:

(1) The number of drug treatment authorization request (TAR) received by facsimile, by secondary answering system and in person for each therapeutic category.

(2) The number of drug TARS requested, approved, denied, and returned.

(3) The length of time between the TAR request and the decision, specified by type of communication such as telephone or facsimile if available.

(4) For denied TARS, the number of fair hearings requested, approved, denied and pending.

(5) The numbers of providers who were unable to submit a request or made multiple attempts because of faulty or unavailable lines of communication, if available.

(6) The numbers of complaints made by beneficiaries and providers relating to difficulty or inability to obtain a TAR response.

(7) The status of the enhancements to the TAR process specified in the section.

(8) The number of calls on the TAR line which are not getting through.

(c) The Auditor General shall prepare a report by February 1, 1991 and every 6 months thereafter providing a summary and analysis of the data specified in subivision (B), a comparative analysis of changes in the TAR process using June 1, 1990 as a base. The analysis shall include a measure of increased or decreased ability to contact the department and receive a response in a shorter or greater period of time.

(d) The department shall report to the Legislature, through the annual budget process, on the cost-effectiveness of contracts executed pursuant to Section 14105.33.

(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. 25. Section 14105.43 of the Welfare and Institutions Code is amended to read:

14105.43. (a) Notwithstanding other provisions of this chapter, any drug which is approved by the United States Food and Drug Administration for use in the treatment of acquired immune deficiency syndrome (AIDS) or an AIDS-related condition shall be deemed to be approved for addition to the Medi-Cal list of contract drugs only for the purpose of treating AIDS or an AIDS-related condition, for the period prior to the completion of the procedures established pursuant to Section 14105.33.

(b) Any drug deemed to be approved pursuant to subdivision (a) shall be immediately added to the Medi-Cal list of contract drugs, and shall be exempt from the contract requirements of Section 14105.33.

(c) If it is determined pursuant to subdivision (d) of Section 14105.39 that a drug to which subdivision (a) applies should not be placed on the Medi-Cal list of contract drugs, that drug shall no

longer be deemed to be approved for addition to the list of contract drugs pursuant to subdivision (a).

SEC. 25.5. Section 14105.45 is added to the Welfare and Institutions Code, to read:

14105.45. The department shall establish a list of Maximum Allowable Ingredient Costs (MAIC) for drugs, which shall be published in provider bulletins. MAICS listed in Title 22 of the California Code of Regulations shall be included in the list of MAICS.

(b) The department shall establish additional MAICS in accordance with all of the following:

(1) The department shall base an MAIC on a reference drug brand which is therapeutically equivalent to the innovator brand, and which is manufactured by a company with production capability to meet the statewide needs of the Medi-Cal program for that drug.

(2) The decision regarding therapeutic equivalency shall be based on the federal Food and Drug Administration determinations. For antacid drugs, therapeutic equivalency shall be determined by the department based on review of in vitro scientific data.

(3) The department shall request information from drug manufacturers regarding the availability of their products throughout the state to outpatient pharmacies through the usual and customary distribution channels in sufficient quantities to meet the needs of the Medi-Cal program.

(4) The department shall notify Medi-Cal providers at least 30 days prior to the effective date of an MAIC.

(c) Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, actions under this section shall not be subject to the Administrative Procedures Act, or to the review and approval of the Office of Administrative Law.

SEC. 26. Section 14105.7 of the Welfare and Institutions Code is amended to read:

14105.7. (a) In order to fairly reimburse pharmacies for the furnishing of prescription drugs to Medi-Cal beneficiaries, the director shall update allowable drug product prices no less often than every 30 days. The update shall include any prior change in drug product price of which the director has received notice. Notice to the director shall include, but not be limited to, publication of the price change in the supplier's catalog or supplement or in nationally distributed drug price reference guides.

(b) No regulation reducing allowable drug product cost reimbursement or removing a drug from the Medi-Cal list of contract drugs shall be operative until at least 30 days after eligible pharmacies have been mailed a notice of the reimbursement limitation by the department or the fiscal intermediary.

(c) The director shall limit the rate of payment for the professional fee portion of prescription services rendered under this chapter pursuant to Section 4229.5 of the Business and Professions Code or Section 11201 of the Health and Safety Code and the

professional fee portion of prescription services rendered as a refill immediately subsequent to such prescription to ensure that the total professional fee paid for the two services does not exceed the professional fee paid for the same prescription refill when provided as a routine service.

SEC. 27. Section 14105.91 of the Welfare and Institutions Code is repealed.

SEC. 28. Section 14105.92 of the Welfare and Institutions Code is amended to read:

14105.92. (a) Notwithstanding any other provision of law, pentoxifylline tablets shall, no later than July 1, 1990, be added to the Medi-Cal list of contract drugs for treatment of persons diagnosed as having both diabetes and intermittent claudication.

(b) For indications other than intermittent claudication, pentoxifylline may only be available upon approval of a prior authorization request submitted by a qualified provider, unless other indications are authorized pursuant to regulations adopted by the department.

(c) Pentoxifylline tablets shall be exempt from the contract requirements of Section 14105.33.

(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. 29. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, respiratory care, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Respiratory care, physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal list of contract drugs and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment

required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in a nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the

beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Family planning services are covered, subject to utilization controls.

(o) Inpatient intensive rehabilitation hospital services, including respiratory rehabilitation services, in a general acute care hospital are covered, subject to utilization controls, when either of the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery.

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(p) Adult day health care is covered in accordance with Chapter 8.7 (commencing with Section 14520).

(q) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(r) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(s) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to those persons. These services may be provided to patients placed in nursing facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include,

but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

(21) Respiratory care practitioner services as defined in Sections 3702 and 3703 of the Business and Professions Code, subject to prescription by a physician and surgeon.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home- and community-based services waiver.

(t) Home- and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for those services under waivers granted in accordance with Section 1396n of Title 42 of the United States Code. The director may seek waivers for

any or all home- and community-based services approvable under Section 1396n of Title 42 of the United States Code. Coverage for those services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(u) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are available.

(v) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Subchapter XIX (commencing with Section 1396 of Chapter 7 of Title 42 of the United States Code.

(w) Hospice service which is Medicare-certified hospice service is covered, subject to utilization controls. Coverage shall be available only to the extent that no additional net program costs are incurred.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

(y) Home- and community-based services approved by the United States Department of Health and Human Services for beneficiaries with a diagnosis of AIDS or ARC, who require a nursing facility or a higher level of care.

Services provided pursuant to a waiver obtained from the Secretary of the United States Department of Health and Human Services pursuant to this subdivision, and which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with the waiver, and subject to the terms, conditions, and duration of the waiver. These services shall be provided to individual beneficiaries in accordance with the client's needs as identified in the plan of care, and subject to medical necessity and applicable utilization control.

The director may under this section contract with organizations qualified to provide, directly or by subcontract, services provided for in this subdivision to eligible beneficiaries. Contracts or agreements entered into pursuant to this division shall not be subject to the Public Contract Code.

(z) Respiratory care when provided in organized health care systems as defined in Section 3701 of the Business and Professions Code, and as an in-home medical care service as outlined in subdivision (s).

SEC. 30. Section 14132d of the Welfare and Institutions Code, as added by Assembly Bill 4104 of the 1989–90 Regular Session, is amended to read:

14132d. Any purchase of prescribed drugs is covered under this chapter subject to the Medi-Cal list of contract drugs and utilization controls.

SEC. 31. Section 14133.2 of the Welfare and Institutions Code is amended to read:

14133.2. The director shall include in the Medi-Cal list of contract drugs any drug approved for the treatment of cancer by the Federal Food and Drug Administration. These drugs shall be exempt from the contract requirements of Section 14105.33.

SEC. 32. Article 5.5 (commencing with Section 14180) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 33. Article 3.7 (commencing with Section 14125) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.7. Incontinence Medical Supplies

14125. The purpose of this article is to establish provider estimated acquisition costs for incontinence medical supplies covered by the Medi-Cal program. Reimbursement for incontinence medical supplies shall consist of the estimated acquisition cost plus a dispensing or markup fee as determined by the department in regulations. The estimated acquisition cost shall be the median price charged for the manufacturer's product, which shall not exceed the maximum median price charged as calculated pursuant to Section 14125.6.

14125.1. Unless the context requires otherwise, the definitions set forth in this section shall govern the construction and meaning of the terms and phrases used in this article.

(a) "Incontinence medical supplies" means disposable medical supplies that are covered benefits under the Medi-Cal program pursuant to subdivision (m) of Section 14132 when prescribed by a physician for the treatment of individuals who are incontinent. Incontinence medical supplies include, but are not limited to, disposable diapers, briefs, underpads, undergarments, liners or pads, and skin care products.

(b) "Department" means the State Department of Health Services.

(c) "Median price charged" means the middle or median price, for each product, of all prices a manufacturer or principal labeler charges to dealers who sell to consumers. Each manufacturer or principal labeler shall have a median price charged for each product covered by the Medi-Cal program.

(d) "Manufacturer" means any person, partnership, or corporation who assembles or combines the components of incontinence supplies into a final product sold to dealers.

(e) "Principal labeler" means any person, partnership, or corporation who purchases from a manufacturer an assembled product which is sold to dealers under the principal labeler's label.

(f) "Dealer" means any person, partnership, corporation, or other entity that is recognized by the manufacturer or principal labeler as a provider or retail outlet for its line of incontinence medical supplies, and which provide these supplies directly to consumers. The term "dealer" includes a retailer.

14125.2. (a) To qualify for Medi-Cal coverage a product shall be in general retail distribution, sold to the general public, and comply with any standards for products established by law or regulation. No product that is manufactured, distributed, or otherwise promoted for the exclusive use of beneficiaries of the Medi-Cal program shall be a Medi-Cal benefit.

(b) In order to qualify as a Medi-Cal provider of incontinence medical supplies, a dealer shall have an established place of business that is readily identifiable as a medical supply business, be open to the general public at regularly established business hours, have incontinence supplies in stock on the premises or in a warehouse under the provider's direct control, and meet all local laws and ordinances regarding business licensing and operations. The department shall establish additional rules and regulations for participation in the Medi-Cal program as it deems necessary to ensure adequate safeguards to the integrity of the Medi-Cal program.

14125.3. The department shall establish an estimated acquisition cost for each incontinence medical supply product for each approved manufacturer or principal labeler, which shall be the median price charged for that product. A principal labeler shall identify the actual manufacturer of each product covered by the Medi-Cal program. The estimated acquisition cost established for a principal labeler shall not exceed the estimated acquisition cost established for the actual manufacturer of each product.

14125.4. The manufacturers and principal labelers shall submit factual median prices. The department shall supply specific instructions to manufacturers and principal labelers for calculation of median price charged. Manufacturers and principal labelers shall submit documentation of the median price charged calculation, and other data and documentation as required by the department, with

the request for median price charged establishment. The department may require proof of sale to retailers at prices claimed before establishing a median price charged. The department shall review median price charged, and update the median price charged at the request of the manufacturer, principal labeler, or dealer, or upon its own initiative. The department shall promulgate regulations specifying the required frequency of review and update of the median price charged.

14125.5. (a) For the median price charged calculation, manufacturers and principal labelers shall array eligible prices in ascending order and report the median price. From that price, any long-term discounts or rebates offered any customer shall be deducted. In the event there is an even number of prices, the mean of the two middle prices shall be used.

(b) For purposes of this article, long-term discounts or rebates shall not include:

(1) Cash discounts of 2 percent or less.

(2) Temporary promotion allowances, that do not exceed 45 days, that require dealer merchandising or advertising performance.

(3) Cooperative advertising or merchandising agreements, or both in combination, that do not exceed 5 percent of product sales.

(c) In calculating the median price charged, prices offered but not charged shall not be considered. Prices reported shall not include prices to the individual consumer, and prices developed solely for the purpose of obtaining a higher median price charged.

14125.6. (a) The department shall establish upper limits to the estimated acquisition costs for each product category of incontinence medical supplies.

(b) The maximum estimated acquisition cost shall be the lower of either: (1) the manufacturer's or principal labeler's median price charged, or (2) the median of median prices charged for the three national name brands which have the highest unit sales on a national basis in each product category.

(c) If there are not three national name brands for a product category, the department may establish the upper limit in that product category. National name brands shall be those brands reported by a national marketing research firm tracking product movement and pricing through retail drug stores. The selection of a national marketing research firm shall be at the discretion of the department.

(d) The department shall define each product category considering the following:

(1) Whether the product is designed for adults or children.

(2) Product size.

(3) Severity of incontinence for which the product is designed.

(4) Manufacturer's absorbency classification of regular or extra absorbent.

14125.65. Notwithstanding Sections 14125, 14125.3, 14125.5, and 14125.6, the department shall consider any testimony, provided

during the process of adopting regulations, regarding the ability of small volume dealers to purchase incontinence medical supplies at the median price charged, and may, through adoption of regulations, make adjustments to the estimated acquisition costs for small volume dealers above the median price charged. Nothing in this section shall be construed to mean that the actual acquisition costs of all dealers must be met.

14125.7. All pricing, discounts, and rebates, except as specified in subdivision (b) of Section 14125.5, shall be reported. Any manufacturer or principal labeler offering discounts, rebates, or any other financial inducement, that fails to report this information as required, or any person who knowingly and willfully submits false pricing information requested by the department, is in violation of this section. Any Medi-Cal provider who solicits, or enters into a collusive arrangement with manufacturers or principal labelers, to obtain unreported prices, discounts, or rebates, or who as part of the application process, or in an effort to maintain continued participation in the Medi-Cal program, knowingly and willfully submits false information to the department, is in violation of this section. For each offense, violators are subject to expulsion from participation in the Medi-Cal program, imprisonment in the county jail, or in the state prison for three, four, or five years, by a fine not to exceed five hundred thousand dollars ($500,000), or by any combination of expulsion, fine, and imprisonment.

14125.8. (a) In order to more fully identify the owner or owners of companies or corporations that apply to be or currently are providers of incontinence medical supplies, within 30 days of the receipt of a request from the department, or a request to the department from the Department of Justice, the applicant or provider shall provide, as part of the application process or as a condition of continued participation in the Medi-Cal program, the following:

(1) The name of the corporation, the official titles of the applicants, and a list of all the corporate officers.

(2) The California driver's license or California identification card number of the applicants, coowners, corporate officers, and financially interested parties.

(3) The applicant's business permit control number, issued by the State Board of Equalization, for the business location where services are rendered to the public.

(4) A statement of all current sources of capital, identity of all investors, disclosure of all manufacturers, suppliers, and providers currently doing business with the applicant, and disclosure of all entities to whom the applicant has extended a line of credit.

(5) A statement certifying that all information supplied pursuant to this section is accurate.

(b) A Medi-Cal provider of incontinence supplies shall not submit a claim for goods or services to the department prior to the date the goods or services are delivered to the Medi-Cal beneficiary. The date

of delivery to a beneficiary shall be the earlier of the date the beneficiary actually received the goods or services, or the date the goods were posted or otherwise dispatched from the provider's premises and control. A claim submitted to the department prior to the date of delivery shall not be paid. Violation of this subdivision shall be grounds for expulsion from the Medi-Cal program.

(c) The department may implement a 180-day moratorium on the issuance of new provider numbers for incontinence medical supply dealers when the department determines this action is necessary to safeguard public funds or to maintain the fiscal integrity of the program.

14125.9. Nothing in this section shall be interpreted as limiting or interfering in any way with the department's authority to contract for the provision of incontinence medical supplies pursuant to subdivision (b) of Section 14105.3.

SEC. 34. (a) Except as provided in subdivision (b), the department shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code within 120 days of the enactment of this act to implement Section 12 of this act. The adoption of regulations pursuant to this section in order to implement Section 12 of this act 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 pursuant to this section within 120 days of the enactment of this act shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 120 days unless the adopting agency complies with all of the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (e) of Section 11346.1 of the Government Code.

(b) The dispensing or markup fee, which is a factor in reimbursement for incontinence medical supplies as described in Section 14125 of the Welfare and Institutions Code, shall not be changed or adopted pursuant to the authorization to adopt emergency regulations set forth in subdivision (a).

SEC. 35. (a) Notwithstanding any other provision of law, counties shall not be required to provide notice, as required under Section 1442 of the Health and Safety Code, or to hold public hearings as required under Section 1442.5 of the Health and Safety Code, for 60 days after enactment of the Budget Act of 1990 for any reductions in, or the elimination of, services provided to indigents as a direct result of state-level funding reductions. However, the county shall hold a hearing on any cuts or reductions taken under this section within 30 days of the action to reduce or eliminate services. The county shall provide notice of the hearing on or before the date of the action.

(b) For the 1990–91 fiscal year, nothing in this act shall require any county to exceed the standard of care provided by the state Medi-Cal or federal Medicaid programs. Notwithstanding any other provision of law, counties shall not be required to increase eligibility or expand the scope of services in the 1990–91 fiscal year for their programs.

SEC. 36. The State Department of Health Services may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to implement Sections 13 to 28, inclusive, and Sections 30 to 33, inclusive, of this act. The adoption of those 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 department in order to implement Sections 13 to 28, inclusive, and Sections 30 to 33, inclusive, of this act shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 37.

SEC. 38. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 39. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to be operative for the entire 1990–91 fiscal year and so facilitate the orderly administration of the public assistance system, it is necessary that this act take effect immediately.

CHAPTER 457

An act to amend Sections 12303.4, 12303.5, 12304, 14105.31, 14105.33, 14105.37, 14105.38, 14105.39, 14105.4, 14105.42, 14105.45, and 16702 of, to amend and repeal Section 14105.35 of, to add Sections 12303.6, 14105.4, 14105.406, 14105.41, 14105.42, 14105.91, 14105.915, and 14105.916 to, the Welfare and Institutions Code, and to amend Sections 10, 34, and 35 of Assembly Bill 3573 of the 1989–90 Regular Session, relating to public assistance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 12303.4 of the Welfare and Institutions Code is amended to read:

12303.4. For the period July 1, 1988, to June 30, 1991, inclusive, Sections 12303.5 and 12304 shall not be operative and the following shall apply:

(a) (1) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500), and who is not described in Section 12304, shall receive services under this article which do not exceed the maximum of 195 hours per month in the individual provider mode of service delivery. In no event shall recipients experience a reduction in the number of hours they were receiving during the month of June 1988, without a reassessment of need.

(2) Recipients served in modes of delivery other than the individual provider mode shall be limited in the maximum number of service hours per month to 195 hours times the statewide wage rate per hour for the individual provider mode as calculated by the department and by dividing this product by the hourly cost of the mode of service to be provided.

(b) (1) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500), who is in need, as determined by the county welfare department, of at least 20 hours per week of the services specified in subdivision (e) of Section 12304, shall be eligible to receive services under this article, the total of which shall not exceed a maximum of 283 hours per month in the individual provider mode of service delivery. In no event shall recipients experience a reduction in the number of hours they were receiving during the month of June 1988, without a reassessment of need.

(2) Recipients served in modes of delivery other than the individual provider mode shall be limited in the maximum number of service hours per month to 283 hours times the statewide wage per hour for the individual provider as calculated by the department and

dividing this product by the hourly cost rate of the mode of service to be provided.

This section shall remain operative only until July 1, 1991, and as of January 1, 1992, is repealed, unless a later enacted statute extends or repeals that date.

SEC. 2. Section 12303.5 of the Welfare and Institutions Code is amended to read:

12303.5. Except as provided in Sections 12303.6 and 12304, no one individual recipient shall receive services under this article, the total cost of which exceeds eight hundred twenty-nine dollars ($829) in any one month. The eight hundred twenty-nine dollars ($829) maximum specified under this section shall be adjusted annually to reflect cost-of-living changes occurring subsequent to January 1, 1990, so that the first such adjustment becomes effective July 1, 1991. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(a) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 1,832
Clothing (apparel and upkeep)	298
Fuel and other utilities	264
Rent, residential	2,303
Transportation	1,026
Total	$ 5,723

(b) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(c) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(d) Calculate a category adjustment factor for each expenditure

category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in subdivision (b) and (2) dividing the sum by 100.

(e) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in subdivision (d).

(f) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in subdivision (d) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

The overall adjustment factor determined by the preceding computational steps shall be multiplied by the maximum payment in effect during the month of June preceding the fiscal year in which the adjustments are to occur, and, notwithstanding Section 11017.1, the product rounded down to the nearest dollar. The resultant amount shall constitute the new maximum payment.

SEC. 3. Section 12303.6 is added to the Welfare and Institutions Code, to read:

12303.6. (a) No adjustment shall be made under this article for the 1990–91 fiscal year to reflect any change in the cost of living.

(b) Any cost-of-living adjustment under this article for the 1991–92 fiscal year and any fiscal year thereafter pursuant to Section 12303.5 shall not include any adjustment to reflect increases for the cost of living for the 1990–91 fiscal year.

SEC. 4. Section 12304 of the Welfare and Institutions Code is amended to read:

12304. (a) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500) who is in need, as determined by the county welfare department, of at least 20 hours per week of the services specified in subdivision (e), shall be eligible to receive services under this article, the total cost of which does not exceed one thousand two hundred three dollars ($1,203) per month, plus adjustments reflecting cost-of-living changes subsequent to January 1, 1990, as determined under Section 12303.5, so that the first such adjustment becomes effective July 1, 1991. Increases in the maximum amount payable under this section shall not be construed to mean automatic increases in the amounts payable under this article.

(b) An individual who is eligible for services subject to the maximum amount specified in subdivision (a) and who is capable of handling his or her own financial and legal affairs shall be given the option of hiring and paying his or her own provider of in-home supportive services. For this purpose the individual shall be entitled to receive a monthly cash payment in advance not to exceed the maximum amount specified in subdivision (a), which is in addition to his or her grant, if any. An individual who is not capable of handling his or her own financial and legal affairs shall be entitled to receive the cash payment through his or her guardian, conservator,

or protective payee.

(c) In no event shall the maximum total cost for services and advance cash payment for one individual recipient under subdivisions (a) and (b) exceed the maximum of one thousand two hundred three dollars ($1,203) per month, as adjusted pursuant to subdivision (a).

(d) The county welfare department shall inform in writing any individual who is potentially eligible for services under this section of his or her right to the services.

(e) For purposes of this section, a recipient who is eligible for services subject to the maximum amount specified in subdivision (a) is one who requires in-home supportive care of at least 20 hours per week to carry out any or all of the following:

(1) Routine bodily functions, such as bowel and bladder care and respiration assistance.

(2) Dressing, oral hygiene, and grooming.

(3) Preparation and consumption of food and meal cleanup for individuals who require assistance with the preparation and consumption of food.

(4) Moving into and out of bed, other assistance in transferring, turning in bed, and other repositioning.

(5) Bathing, routine bed baths, and washing.

(6) Ambulation and care and assistance with prostheses.

(7) Rubbing of skin to promote circulation.

(8) Paramedical services.

(9) Any other function of daily living as determined by the director.

This determination of need shall be supported by a medical report when requested and shall be prepared at the expense of the State Department of Social Services.

SEC. 5. Section 14105.31 of the Welfare and Institutions Code, as added by Assembly Bill 3573 of the 1989–90 Regular Session, is amended to read:

14105.31. For purposes of the Medi-Cal contract drug list, the following definitions shall apply:

(a) "Single-source drug" means a drug which is produced and distributed under an original New Drug Application approved by the federal Food and Drug Administration. This shall include a drug marketed by the innovator manufacturer and any cross-licensed producers or distributors operating under the New Drug Application. A drug ceases to be a single-source drug when the same drug in the same dosage form and strength manufactured by another manufacturer is approved by the federal Food and Drug Administration under the provisions for an Abbreviated New Drug Application.

(b) "Best price" means the negotiated price, or the manufacturer's lowest price available to any class of trade organization or entity, including, but not limited to, wholesalers, retailers, hospitals, repackagers, providers, or governmental entities

within the United States, which contracts with a manufacturer for a specified price for drugs, inclusive of cash discounts, free goods, volume discounts, rebates, and on- or off-invoice discounts or credits, based upon the manufacturer's commonly used package sizes for the drug.

(c) "Equalization payment amount" means the amount negotiated between the manufacturer and the department for reimbursement by the manufacturer, as specified in the contract.

(d) "Manufacturer" means any person, partnership, corporation, or other institution or entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of drugs, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or in the packaging, repackaging, labeling, relabeling, and distribution of drugs.

(e) "Price escalator" means a mutually agreed upon price specified in the contract, to cover anticipated cost increases over the life of the contract.

(f) 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. 6. Section 14105.33 of the Welfare and Institutions Code, as added by Assembly Bill 3573 of the 1989–90 Regular Session, is amended to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed.

(b) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed upon price escalators, as defined in that section. In no event shall the department require a manufacturer to provide a price lower than its lowest price to any class of trade, organization, or entity. The contracts shall provide for an equalization payment amount, as defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the equalization payment amount, based on utilization data from the department's prescription drug paid claims tapes.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract with all manufacturers who negotiate for a contract in a particular category. The department shall ensure that there is sufficient

representation of single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) (1) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(2) The department shall make every attempt to complete the initial contracting process for each major therapeutic category by January 1, 1993.

(e) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(f) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(g) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to detemine if an appropriate substitute medication is available from Medi-Cal.

(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. 7. Section 14105.35 of the Welfare and Institutions Code, as added by Assembly Bill 3573 of the 1989–90 Regular Session, is amended to read:

14105.35. (a) (1) On and after July 1, 1990, drugs included on the Medi-Cal drug formulary shall be included on the list of contract drugs until the department and the manufacturer have concluded contract negotiations or the department suspends the drug from the list of contract drugs pursuant to the provisions of this subdivision.

The department shall, in writing, invite any manufacturer with single-source drug products on the formulary as of July 1, 1990, to enter into negotiations relative to the retention of its drug or drugs. As to the issue of cost, the department shall accept the manufacturer's best price as sufficient for purposes of entering into a contract to retain the drug or drugs on the list of contract drugs.

If the department and a manufacturer enter into a contract for retention of a drug or drugs on the list of contract drugs, the drug or drugs shall be retained on the list of contract drugs for the effective term of the contract.

If a manufacturer refuses to enter into negotiations with the department pursuant to this subdivision, or if after 30 days of

negotiation, the manufacturer has not agreed to execute a contract for a drug at the manufacturer's best price, the department may suspend from the list of contract drugs the manufacturer's single-source drug in question for a period of at least 180 days. The department shall lift the suspension upon execution of a contract for that drug. Consistent with the provisions of this section, the department shall delete the Medi-Cal drug formulary specified in paragraphs (b), (c), (d), and (e) of Section 59999 of Title 22 of the California Code of Regulations.

(2) On and after July 1, 1990, the director may retain a drug on the Medi-Cal list of contract drugs even if no contract is executed with a manufacturer, if the director determines that an essential need exists for that drug, and there are no other drugs currently on the formulary that meet that need.

(3) The director may delete a drug from the list of contract drugs if the director determines that the drug presents problems of safety or misuse. The director's decision as to safety shall be based upon published medical literature, and the director's decision as to misuse shall be based on published medical literature and the director's decision claims data supplied by the fiscal intermediary.

(b) Any reference to the Medi-Cal drug formulary by statute or regulation shall be construed as referring to the list of contract drugs.

(c) (1) Any drug in the process of being added to the formulary by contract agreement pursuant to Section 14105.3, executed prior to the effective date of this section, shall be added to the list of contract drugs.

(2) Contracts pursuant to Section 14105.3 executed prior to January 1, 1991, shall be considered to be contracts executed pursuant to Section 14105.33, and the department shall exempt the drugs included in these contracts from the initial therapeutic category review in which they would normally be considered.

(3) Nothing in this section shall be construed to require the department to discontinue negotiations into which it has entered with any manufacturer as of the effective date of this section. Contracts entered into as a result of these negotiations shall be exempt from the initial therapeutic category review in which they would normally be considered.

(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. 8. Section 14105.37 of the Welfare and Institutions Code, as added by Assembly Bill 3573 of the 1989–90 Regular Session, is amended to read:

14105.37. (a) The department shall notify each manufacturer of drugs in therapeutic categories selected pursuant to Section 14105.33 of the provisions of Sections 14105.31 to 14105.42, inclusive.

(b) If, within 30 days of notification, a manufacturer does not enter into negotiations for a contract pursuant to those sections, the department may suspend or delete from the list of contract drugs, or

refuse to consider for addition, drugs of that manufacturer in the selected therapeutic categories.

(c) If, after 120 days from the initial notification, a contract is not executed for a drug currently on the list of contract drugs, the department may suspend or delete the drug from the list of contract drugs.

(d) If, within 120 days from the initial notification, a contract is executed for a drug currently on the list of contract drugs, the department shall retain the drug on the list of contract drugs.

(e) If, within 120 days from the date of the initial notification, a contract is executed for a drug not currently on the list of contract drugs, the department shall add the drug to the list of contract drugs.

(f) The department shall terminate all negotiations 120 days after the initial notification.

(g) The department may suspend or delete any drug from the list of contract drugs at the expiration of the contract term or when the contract between the department and the manufacturer of that drug is terminated.

(h) Any drug suspended from the list of contract drugs pursuant to this section shall be subject to prior authorization, as if that drug were not on the list of contract drugs.

(i) Any drug suspended from the list of contract drugs pursuant to this section or Section 14105.35 for at least 12 months may be deleted from the list of contract drugs in accordance with the provisions of Section 14105.38.

(j) 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. 9. Section 14105.38 of the Welfare and Institutions Code, as added by Assembly Bill 3573 of the 1989–90 Regular Session, is amended to read:

14105.38. (a) (1) In the event the department determines a drug should be deleted from the list of contract drugs, the department shall conduct a public hearing, as provided in this section, to receive comment on the impact of removing the drug.

(2) (A) The department shall provide written notice 30 days prior to the hearing.

(B) The department shall send the notice required by this subdivision to the manufacturer of the drug proposed to be deleted and to organizations representing Medi-Cal beneficiaries.

(b) (1) The hearing panel shall consist of the Chief, Medi-Cal Drug Discount Program, who shall serve as chair, and the Medi-Cal Contract Drug Advisory Committee.

(2) The hearing shall be recorded and transcribed, and the transcript available for public review.

(3) Subsequent to hearing all public comment, and within 30 days of the hearing, each panel member shall submit a recommendation regarding deletion of the drug and the reason for the recommendation to the director.

(c) The director shall consider public comments provided at the hearing and the recommendations of each panel member in determining whether to delete the drug.

(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. 10. Section 14105.39 of the Welfare and Institutions Code, as added by Assembly Bill 3573 of the 1989–90 Regular Session, is amended to read:

14105.39. (a) (1) A manufacturer of a new single-source drug may request inclusion of its drug on the list of contract drugs pursuant to Section 14105.33 provided all of the following conditions are met:

(A) The request is made within 12 months of approval for marketing by the federal Food and Drug Administration.

(B) The manufacturer agrees to negotiate a contract with the department to provide the drug at the manufacturer's best price.

(C) The manufacturer provides the department with necessary information, as specified by the department, in the request.

(D) The department had concluded contracting for the therapeutic category in which the drug is included prior to approval of the drug by the federal Food and Drug Administration.

(2) Within 90 days from receipt of the request, the department shall evaluate the request using the criteria identified in subdivision (d).

(b) Any petition for the addition to or deletion of a drug to the Medi-Cal drug formulary submitted prior to the effective date of this section, shall be deemed to be denied. A manufacturer who has submitted a petition deemed denied may request inclusion of that drug on the list of contract drugs provided all of the following conditions are met:

(1) The manufacturer agrees to negotiate for a contract with the department to provide the drug at the manufacturer's best price.

(2) The manufacturer provides the department with necessary information, as specified by the department, in the request.

(3) The manufacturer submits the request to the department prior to October 1, 1990.

(c) Any new drug designated as having an important therapeutic gain and approved for marketing by the federal Food and Drug Administration on or after the effective date of this section, shall immediately be included on the list of contract drugs for a period of three years provided that all of the following conditions are met:

(1) The manufacturer offers the department its best price.

(2) The drug is typically administered in an outpatient setting.

(3) The drug is prescribed only for the indications and usage specified in the federal Food and Drug Administration approved labeling.

(4) The drug is determined by the director to be safe, relative to other drugs in the same therapeutic category on the list of contract

drugs.

(d) (1) To ensure that the health needs of Medi-Cal beneficiaries are met consistent with the intent of this chapter, the department shall, when evaluating a decision to execute a contract, and when evaluating drugs for retention on, addition to, or deletion from, the list of contract drugs, use all of the following criteria:

(A) The safety of the drug.

(B) The effectiveness of the drug.

(C) The essential need for the drug.

(D) The potential for misuse of the drug.

(E) The cost of the drug.

(2) The deficiency of a drug when measured by one of these criteria may be sufficient to support a decision that the drug should not be added or retained, or should be deleted from the list. However, the superiority of a drug under one criterion may be sufficient to warrant the addition or retention of the drug, notwithstanding a deficiency in another criterion.

(3) Notwithstanding paragraph (2) of this subdivision, when a manufacturer requests inclusion of a drug on the list of contract drugs pursuant to subdivision (a) or (b) of this section, as to the issue of cost, the department shall accept the manufacturer's best price as sufficient for purposes of entering into negotiations for a contract to place the drug on the list of contract drugs if the following condition is met:

The course of therapy cost of the drug, as compared to the course of therapy cost of drugs within the same category currently on the list of contract drugs, would result in a savings to the drug portion of the Medi-Cal program if the drug were added to the list of contract drugs.

Nothing shall preclude the department from adding drugs to the list of contract drugs that do not meet the above-referenced condition.

(e) (1) A manufacturer of single-source drugs denied a contract pursuant to this section or Section 14105.33 or 14105.37, may file an appeal of that decision with the director within 30 calendar days of the department's written decision.

(2) Within 30 calendar days of the manufacturer's appeal, the director shall request a recommendation regarding the appeal from the Medi-Cal Contract Drug Advisory Committee. The committee shall provide its recommendation in writing, within 30 calendar days of the director's request.

(3) The director shall issue a final decision on the appeal within 30 calendar days of the recommendation.

(f) Changes made to the list of contract drugs, including those made pursuant to Section 14105.37, shall become effective no sooner than 30 days after publication of the changes in provider bulletins.

(g) Changes made to the list of contract drugs under this or any other section are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with

Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law.

(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. 11. Section 14105.4 of the Welfare and Institutions Code, as added by Assembly Bill 3573 of the 1989–90 Regular Session, is amended to read:

14105.4. (a) The director shall appoint a Medi-Cal Contract Drug Advisory Committee for the purpose of providing scientific and medical analysis on drugs contained on the list of contract drugs. The duties of the committee shall be as follows:

(1) To review drugs in the Medi-Cal list of contract drugs and make written recommendations to the director as to the addition of any drug or the deletion of any drug from the list. These recommendations shall be in accordance with subdivision (d) of Section 14105.39.

(2) To review and report in writing to the director as to the comparative therapeutic effect of drugs in accordance with Section 14053.5.

(3) To prepare a fair, impartial, and independent recommendation in writing, regarding appeals from manufacturers made pursuant to subdivision (e) of Section 14105.39.

(b) The committee shall consist of at least one representative from each of the following groups:

(1) Physicians.

(2) Pharmacists.

(3) Schools of pharmacy or pharmacologists.

(4) Med-Cal beneficiaries

(c) Members of the committee shall be reimbursed for necessary travel and other expenses incurred in the performance of official committee duties.

(d) In order to provide sufficient scientific information and analysis in the therapeutic categories under review, the director may replace a representative if required for specific expertise.

(e) The director shall notify the committee of the decisions made on the recommendations.

(f) 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. 12. Section 14105.4 is added to the Welfare and Institutions Code, to read:

14105.4. (a) The department shall schedule and conduct a public regulatory hearing to consider the addition of a drug to, or the deletion of a drug from, the Medi-Cal drug formulary five working days subsequent to the Medical Therapeutic and Drug Advisory Committee meeting which shall meet at least every four months.

The public hearing may consist of written testimony only, and the hearing record shall be closed at the end of the public hearing.

(b) The department shall make available 45 days prior to the public hearing the department's estimate of any anticipated costs or savings to the state from adding a drug product to, or deleting a drug product from, the Medi-Cal drug formulary.

(c) Whenever the department accepts a completed petition to add a drug product to the Medi-Cal drug formulary and it is not processed pursuant to Section 14105.9, it shall be scheduled for review at the next regularly scheduled Medical Therapeutic and Drug Advisory Committee meeting and public regulatory hearing, unless the meeting and hearing are scheduled to occur within 120 days, in which case the drug product may be scheduled for the following hearing.

(d) The director shall issue a final decision regarding the drug product and shall submit any regulation adding a drug product to, or deleting a drug product from, the Medi-Cal drug formulary to the Office of Administrative Law, along with the completed rulemaking record, within seven months after the hearing prescribed in subdivision (a). This section shall not, however, be construed in a manner which results in the disapproval or invalidation of a regulation for failure to comply with the time frames prescribed in this subdivision and subdivisions (a) and (c).

(e) (1) Except as provided in paragraph (2), the criteria used by the department in deciding whether a drug product shall be added to or deleted from the formulary shall be limited to the criteria adopted as department regulations. The criteria shall be specific and unambiguous.

(2) Notwithstanding paragraph (1), either of the following may be submitted by the manufacturer in lieu of the Summary Basis of Approval prepared by the federal Food and Drug Administration for that drug:

(A) The federal Food and Drug Administration's approval or approvable letter for the drug and federal Food and Drug Administration's approved labeling.

(B) The federal Food and Drug Administration's medical officers' and pharmacologists' reviews and the federal Food and Drug Administration's approved labeling.

(f) Departmental requests for information from persons filing drug petitions to which this section applies shall be specific and unambiguous and shall be made solely for the purpose of addressing the criteria utilized in accordance with subdivision (e).

(g) All published studies received by the department pursuant to a drug petition prior to the close of the public regulatory hearing record shall be accepted and considered by the department.

(h) Whenever the director decides to reject a petition to add a drug product to, or delete a drug product from, the formulary, the director shall notify the petitioner directly and in writing indicating the reason and specifying the criteria utilized in reaching the

decision.

(i) The department shall accept a petition for a drug that has been rejected by the director upon the submission of another complete petition containing substantial new information that addresses the reason or reasons for rejection stated by the director pursuant to subdivision (h). Any petition accepted pursuant to this subdivision shall be processed in accordance with subdivision (c), or Section 14105.9, whichever is applicable.

(j) This section shall become operative on January 1, 1993.

SEC. 13. Section 14105.406 is added to the Welfare and Institutions Code, to read:

14105.406. The director shall, in considering suspension or deletion of drugs from the list of contract drugs, ensure that the department has the ability to process drug treatment authorization requests (TARs) without substantial degradation of the level of service, including response time, to providers which was in effect July 1, 1990.

In considering suspension or deletion of drugs, the director shall seek the advice of the Chief of the Field Services Branch and the Medi-Cal Contract Drug Advisory Committee.

If the treatment authorization request reports provided in subdivision (b) of Section 14105.42 indicate a substantial degradation in the level of service, including response time, for processing TARs, the director shall, within 60 days, hold a public hearing on the functioning of the TAR system.

Subsequent to the hearing, the director shall consult with at least two members of each group represented on the Medi-Cal Contract Drug Advisory Committee as provided in subdivision (b) of Section 14105.4 and take appropriate action to remedy the problem areas discussed in the report and in the public hearing.

Based upon the information gathered as a result of the reports and public hearing referred to above, and in consultation with the Medi-Cal Contract Drug Advisory Committee, the director may add drugs which previously had been suspended or deleted to the list of contract drugs.

SEC. 14. Section 14105.41 is added to the Welfare and Institutions Code, to read:

14105.41. (a) For the purpose of adding drugs to, or deleting drugs from, the Medi-Cal drug formulary as described in Section 14105.4, whether pursuant to a petition or by the department independent of a petition, all of the requirements of the Administrative Procedure Act contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable except that the requirements of subdivision (a) of Section 11347.1 and subdivision (b) of Section 11346.7 of the Government Code shall be deemed to have been complied with if the department does all of the following:

(1) Upon receipt of a petition requesting the addition of a drug to, or the deletion of a drug from, the Medi-Cal drug formulary, the

department shall notify the petitioner directly and in writing of the receipt of the petition and shall, within 30 days, either return the petition as incomplete or schedule the petition for public hearing, unless the public hearing is not required pursuant to Section 14105.9.

(2) Notifies each petitioner directly and in writing of its decision regarding the addition of a drug product to, or deletion of a drug product from, the formulary and shall state the reason or reasons for its decision and the specific regulatory criteria that are the basis of the department's decision.

(3) Prepares and submits to the Office of Administrative Law with the adopted regulation all of the following for each drug which the department has decided to add to, or delete from, the Medi-Cal drug formulary:

(A) A brief summary of the comments submitted. For the purpose of this section, "comments" shall mean the major points raised in testimony which specifically address the regulatory criteria upon which the department is authorized, pursuant to subdivision (e) of Section 14105.4, to base a decision to add or delete a drug from the formulary.

(B) The recommendation of the Medical Therapeutic and Drug Advisory Committee.

(C) The decision of the department.

(D) A statement of the reason and the specific regulatory criteria that are the basis of the department's decision.

(b) Any additional information provided to the department during the posting of revisions to the proposed regulation shall be responded to by the department directly and in writing to the originator. That response shall notify the originator whether the additional information has resulted in a changed decision.

(c) For the purpose of review by the court, if any, and review and approval by the Office of Administrative Law of changes to the Medi-Cal drug formulary adopted by the department, each drug added to, or deleted from, the formulary shall be considered to be a separate regulation and shall be severable from all other additions or deletions of drugs contained in the rulemaking file.

(d) This section shall be applicable to any Medi-Cal drug formulary regulation package filed with the Office of Administrative Law after January 1, 1986.

(e) This section shall become operative on January 1, 1993.

SEC. 15. Section 14105.42 of the Welfare and Institutions Code, as added by Assembly Bill 3573 of the 1989–90 Regular Session, is amended to read:

14105.42. (a) The department shall report to the Legislature after the first three major therapeutic categories have been reviewed and contracts executed. The report shall include the estimated savings, number of manufacturers entering negotiations, number of contracts executed, number of drugs added and deleted, and impact on Medi-Cal beneficiaries and providers.

(b) The department shall provide the following data to the

Legislature and to the Auditor General by January 1, 1991, and every six months thereafter:

(1) The number of drug treatment authorization request (TAR) received by facsimile, by secondary answering system and in person for each therapeutic category.

(2) The number of drug TARS requested, approved, denied, and returned.

(3) The length of time between the TAR request and the decision, specified by type of communication such as telephone or facsimile if available.

(4) For denied TARS, the number of fair hearings requested, approved, denied and pending.

(5) The numbers of providers who were unable to submit a request or made multiple attempts because of faulty or unavailable lines of communication, if available.

(6) The numbers of complaints made by beneficiaries and providers relating to difficulty or inability to obtain a TAR response.

(7) The status of the enhancements to the TAR process specified in the section.

(8) The number of calls on the TAR line which are not getting through.

(c) The Auditor General shall prepare a report by February 1, 1991, and every 6 months thereafter providing a summary and analysis of the data specified in subdivision (b), a comparative analysis of changes in the TAR process using June 1, 1990, as a base. The analysis shall include a measure of increased or decreased ability to contact the department and receive a response in a shorter or greater period of time.

(d) The department shall report to the Legislature, through the annual budget process, on the cost-effectiveness of contracts executed pursuant to Section 14105.33.

(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. 16. Section 14105.42 is added to the Welfare and Institutions Code, to read:

14105.42. The provisions of Sections 14105.4 to 14105.41, inclusive, and Section 14105.65 shall not preclude the department from taking emergency regulatory action as it deems appropriate.

This section shall become operative on January 1, 1993.

SEC. 17. Section 14105.45 of the Welfare and Institutions Code, as added by Assembly Bill 3573 of the 1989–90 Regular Session, is amended to read:

14105.45. The department shall establish a list of Maximum Allowable Ingredient Costs (MAIC) for drugs, which shall be published in provider bulletins. On the effective date of this section, MAICS listed in Title 22 of the California Code of Regulations shall be included in the list of MAICS. MAICs shall no longer be listed in regulations. The department shall repeal Section 51513.3 of Title 22

of the California Code of Regulations.

(b) The department shall establish additional MAICS in accordance with all of the following:

(1) The department shall base an MAIC on a reference drug brand which is therapeutically equivalent to the innovator brand, and which is manufactured by a company with production capability to meet the statewide needs of the Medi-Cal program for that drug.

(2) The decision regarding therapeutic equivalency shall be based on the federal Food and Drug Administration determinations. For antacid drugs, therapeutic equivalency shall be determined by the department based on review of in vitro scientific data.

(3) The department shall request information from drug manufacturers regarding the availability of their products throughout the state to outpatient pharmacies through the usual and customary distribution channels in sufficient quantities to meet the needs of the Medi-Cal program.

(4) The department shall notify Medi-Cal providers at least 30 days prior to the effective date of an MAIC.

(c) Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, actions under this section shall not be subject to the Administrative Procedure Act, or to the review and approval of the Office of Administrative Law.

SEC. 18. Section 14105.91 is added to the Welfare and Institutions Code, to read:

14105.91. The department may add a drug to the formulary which is a different dosage form, or strength of a drug product which is listed in the formulary without review by the Medical Therapeutics and Drug Advisory Committee and the addition shall be deemed to comply with the requirements of the California Administrative Procedures Act.

This section shall become operative on January 1, 1993.

SEC. 19. Section 14105.915 is added to the Welfare and Institutions, to read:

14105.915. The department may remove any drug from the formulary at the expiration of the contract term or when the contract between the department and the manufacturer of that drug is terminated.

This section shall become operative on January 1, 1993.

SEC. 19.5. Section 14105.916 is added to the Welfare and Institutions Code, to read:

14105.916. Notwithstanding any other provision of law, on and after January 1, 1993, drugs on the Medi-Cal list of contract drugs shall become the Medi-Cal drug formulary.

SEC. 20. Section 16702 of the Welfare and Institutions Code is amended to read:

16702. The net county costs of health services specified in each county health services plan and budget shall be financed in each county, the City of Berkeley, the City of Long Beach, and the City

of Pasadena with assistance from the County Health Services Fund in accordance with the following:

(a) For each county, an annual grant of three dollars ($3) per capita based upon population estimates of the Department of Finance as of January 1 of the previous fiscal year; and

(b) Fifty percent of the amount derived by subtracting paragraph (2) from paragraph (1) below:

(1) The base net costs increased by 16 percent for the 1979–80 fiscal year.

(2) The amount calculated for the county in subdivision (a).

(3) The base net costs for each county shall be the actual net costs for the county for the 1977–78 fiscal year, as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978 and adjusted as applicable pursuant to this section.

(c) (1) The amount of assistance from the County Health Services Fund for the County of Alameda, as determined in subdivision (b), shall include an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year.

(2) The amount of assistance from the County Health Services Fund for the City of Berkeley shall be an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year.

(3) The amount of additional assistance from the County Health Services Fund for public health services in the County of San Joaquin shall be the amount set forth in the Budget Act of 1981 (Chapter 99 of the Statutes of 1981) for the San Joaquin Local Health District for that purpose for the 1981–82 fiscal year.

(4) The amounts of assistance from the County Health Services Fund for the City of Long Beach and the City of Pasadena shall be the average amounts of the Public Health Services Contracts with Los Angeles County, less the average revenue from environmental health permit fees collected in each jurisdiction and retained by the county for three years prior to the initial year of County Health Services Fund assistance to the City of Long Beach and the City of Pasadena. These amounts shall be adjusted by the average increase in the amount of the contract over the same period. This paragraph shall be operative in the fiscal year following the adoption of a resolution by the governing body pursuant to Section 477 of the Health and Safety Code.

(5) The base net costs for the County of Los Angeles shall be reduced by the amounts provided to the City of Long Beach and the City of Pasadena as determined by the formula established in paragraph (3).

(6) The amount of assistance for the County of Los Angeles, as determined in subdivision (a), shall be reduced by the amounts provided to the City of Long Beach and the City of Pasadena, as determined in paragraph (3).

(d) The amount of funds transferred at the request of the county pursuant to Section 1157.5 of the Health and Safety Code.

(e) On July 1, 1980, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect any increases or decreases in the cost of living. On July 1, 1981, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases, if any, in the appropriations provided for in the Budget Act for the 1981–82 fiscal year and shall be adjusted to reflect the funds transferred pursuant to Section 12 of Chapter 1004 of the Statutes of 1981. On July 1, 1982, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases, if any, in the appropriations provided for in the Budget Act for the 1981–82 fiscal year and the increases, if any, in the Budget Act for the 1982–83 fiscal year. On July 1, 1983, and each July 1 thereafter, the amounts specified in subdivisions (a), (b), (c), and (d), as adjusted pursuant to this subdivision for the 1982–83 fiscal year, shall be adjusted to reflect any increases or decreases in the cost of living occurring during the 1982 calendar year and each year thereafter. The average of the separate indices of the cost of living for Los Angeles and San Francisco as published by the United States Bureau of Labor Statistics shall be used as the basis for determining the changes in the cost of living. The State Department of Health Services shall compare the average index for the December preceding the July in which the cost-of-living adjustment is effective with the average index for the month of December of the previous year. The percentage increase or decrease in the average index shall then be multiplied by the amounts specified in subdivisions (a), (b), (c), and (d) as previously adjusted pursuant to this subdivision.

(f) The amounts specified in subdivisions (a), (b), (c), and (d) shall not be adjusted for the 1990–91 fiscal year to reflect any increase in the cost of living. Calculations for any cost-of-living adjustment under this section for the 1991–92 fiscal year or any fiscal year thereafter shall not include any adjustment to reflect increases for the cost of living for the 1990–91 fiscal year.

SEC. 21. Section 10 of Assembly Bill 3573 of the 1989–90 Regular Session is amended to read:

Sec. 10. The Legislature finds and declares as follows:

(a) It is the intent of the Legislature to improve the health status of Medi-Cal beneficiaries at the least possible cost to the state.

(b) The Medi-Cal program is a large purchaser of drugs and should be entitled to employ usual business practices in securing drugs at discount prices.

(c) A customary business practice for drug manufacturers and distributors is to offer discount prices and rebates on drugs to their large volume purchasers, including other governmental agencies.

(d) In order to enable Medi-Cal to purchase drugs in the most cost-competitive manner and employ customary business practices, it is necessary to allow the State Department of Health Services to replace the Medi-Cal drug formulary with a list of contract drugs.

(e) It is the intent of the Legislature that the list of contract drugs contain a comprehensive mix of single-source and multiple-source drugs, sufficient to ensure beneficiary access to appropriate drug therapies. In addition, for persons with certain medical conditions, therapeutic equivalents are not interchangeable. Therefore, it is also the intent of the Legislature to ensure that within a therapeutic category, sufficient variety is available to accommodate medically necessary alternatives.

(f) The Legislature intends that Medi-Cal beneficiaries have available a comprehensive range of drug products and hereby directs the department to favorably review manufacturers' requests for drug product addition when those requests are accompanied with an acceptable best price contract offer, and the drug product otherwise meets the five criteria enumerated in subdivision (d) of Section 14105.39 of the Welfare and Institutions Code.

(g) It is the intent of the Legislature that the department improve the telephone access of providers to the current drug treatment authorization process. The department intends to meet this objective by expanding the resources available to the field offices, consistent with proposals included in the Budget Act of 1990. These additional resources are intended to increase availability of field office staff to providers. The Legislature further intends that the department respond to provider requests within 10 rings, or provide a secondary answering system to record provider calls. It is also intended that the department develop performance standards for responding to provider calls, consistent with the advances in technology the department is currently pursuing. In no event should these performance standards exceed eight working hours.

SEC. 22. Section 34 of Assembly Bill 3573 of the 1989–90 Regular Session is amended to read:

Sec. 34. (a) Except as provided in subdivision (b), the department shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code within 120 days of the enactment of this act to implement Section 33 of this act. The adoption of regulations pursuant to this section in order to implement Section 33 of this act 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 pursuant to this section within 120 days of the enactment of this act shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 120 days unless the

adopting agency complies with all of the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (e) of Section 11346.1 of the Government Code.

(b) The dispensing or markup fee, which is a factor in reimbursement for incontinence medical supplies as described in Section 14125 of the Welfare and Institutions Code, shall not be changed or adopted pursuant to the authorization to adopt emergency regulations set forth in subdivision (a).

SEC. 23. Section 35 of Assembly Bill 3573 of the 1989–90 Regular Session is amended to read:

Sec. 35. (a) Notwithstanding any other provision of law, counties shall not be required to provide notice, as required under Section 1442 of the Health and Safety Code, or to hold public hearings as required under Section 1442.5 of the Health and Safety Code, for 60 days after enactment of the Budget Act of 1990 for any reductions in, or the elimination of, services provided to indigents as a direct result of state-level funding reductions. However, the county shall hold a hearing on any cuts or reductions taken under this section within 30 days of the action to reduce or eliminate services. The county shall provide notice of the hearing on or before the date of the action.

(b) For the 1990–91 fiscal year, nothing in subdivision (c) of Section 1442.5 of the Health and Safety Code shall require any county to exceed the standard of care provided by the state Medi-Cal program. Notwithstanding any other provision of law, counties shall not be required to increase eligibility or expand the scope of services in the 1990–91 fiscal year for their programs.

SEC. 24. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 25. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to be operative for the entire 1990–91 fiscal year and so facilitate the orderly administration of the public assistance system, it is necessary that this act take effect immediately.

CHAPTER 458

An act to add Section 13308 to the Government Code, and to add Sections 11453.05, 12201.05, 12303.51, 14029, and 16702.01 to the Welfare and Institutions Code, relating to reductions in state appropriations.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990]

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

SECTION 1. Section 13308 is added to the Government Code, to read:

13308. (a) The Director of Finance shall provide to the Legislature, on or before May 21 of each year, an estimate of the General Fund revenues for the ensuing fiscal year and an estimate of General Fund workload budget for the ensuing fiscal year.

(b) If the estimate of General Fund revenues is more than .5 percent less than the estimated General Fund workload budget, and the director so certifies to the Commission on State Finance, adjustments shall be made to General Fund appropriations pursuant to subdivision (c) on July 1 of the ensuing fiscal year if the Commission on State Finance certifies the general accuracy of the estimates. If the commission fails to make the certification within 14 days of receiving the estimates and does not submit its reasons for refusing to do so to the Legislature and Governor in writing within the 14 day period, it shall be deemed to have certified the estimates.

(c) If the estimates are certified by the Commission on State Finance or are deemed to be certified pursuant to subdivision (b), appropriations from the General Fund, except appropriations required by operation of the Constitution, shall be reduced by the same percentage as the difference between estimated General Fund revenues and the estimated General Fund workload budget, on a pro rata basis.

(d) Notwithstanding any other provision of law, in the event a General Fund appropriation which is reduced pursuant to subdivision (c) is for a program under which individuals other than an officer or employee of the state receive an amount determined pursuant to statute, whether that amount is an entitlement or not, that amount shall be reduced by the same percentage as the General Fund appropriation from which that payment is made is reduced.

(e) The total amount of any reduction in any General Fund appropriation pursuant to this section in any fiscal year shall not exceed four percent of the appropriation being reduced.

(f) The Legislature may suspend the operation of this section for a fiscal year in which General Fund appropriations would otherwise be reduced pursuant to subdivision (c). The suspension may be in the Budget Act.

SEC. 2. Section 11453.05 is added to the Welfare and Institutions Code, to read:

11453.05. Notwithstanding any other provision of this article, on July 1 of any fiscal year for which General Fund appropriations are reduced pursuant to subdivision (c) of Section 13308 of the Government Code, the amount otherwise payable under Section 11452, subdivision (a) of Section 11450, and Section 11453 shall be reduced by an amount equal to the amount otherwise payable, multiplied by the percentage reduction in General Fund appropriations pursuant to subdivision (c) of Section 13308 of the Government Code. In no event, shall the reduction under this paragraph exceed 4 percent of the amount otherwise payable or the amount of any cost of living increase otherwise payable, whichever is less.

SEC. 3. Section 12201.05 is added to the Welfare and Institutions Code, to read:

12201.05. Notwithstanding any other provision of this article, on July 1 of any fiscal year for which General Fund appropriations are reduced pursuant to subdivision (c) of Section 13308 of the Government Code, the amount of aid otherwise payable under this article shall be reduced by an amount equal to the amount otherwise payable, multiplied by the percentage reduction in General Fund appropriations pursuant to subdivision (c) of Section 13308 of the Government Code. In no event, shall the reduction under this paragraph exceed 4 percent of the amount otherwise payable or the amount of any cost of living increase otherwise payable, whichever is less.

SEC. 4. Section 12303.51 is added to the Welfare and Institutions Code, to read:

12303.51. On July 1 of any fiscal year for which General Fund appropriations are reduced pursuant to subdivision (c) of Section 13308 of the Government Code, the amount otherwise payable under this article shall be reduced by an amount equal to the amount otherwise payable, multiplied by the percentage reduction in General Fund appropriations pursuant to subdivision (c) of Section 13308 of the Government Code. In no event, shall the reduction under this section exceed 4 percent of the amount otherwise payable or the amount of any cost of living increase otherwise payable, whichever is less.

SEC. 5. Section 14029 is added to the Welfare and Institutions Code, to read:

14029. On July 1 of any fiscal year for which General Fund appropriations are reduced pursuant to subdivision (c) of Section 13308 of the Government Code, the amounts otherwise payable to providers under this chapter shall be reduced by an amount equal to the amount otherwise payable, multiplied by the percentage reduction in General Fund appropriations pursuant to subdivision (c) of Section 13308 of the Government Code. In no event, shall the reduction under this paragraph exceed 4 percent of the amount

otherwise payable or the amount of any cost of living increase otherwise payable, whichever is less.

SEC. 6. Section 16702.01 is added to the Welfare and Institutions Code, to read:

16702.01. Notwithstanding any provision of Section 16702, on July 1 of any fiscal year for which General Fund appropriations are reduced pursuant to subdivision (c) of Section 13308 of the Government Code, the amount otherwise payable under Section 16702 shall be reduced by an amount equal to the amount otherwise payable, multiplied by the percentage reduction in General Fund appropriations pursuant to subdivision (c) of Section 13308 of the Government Code. In no event, shall the reduction under this paragraph exceed 4 percent of the amount otherwise payable.

CHAPTER 459

An act to add Section 17581 to the Government Code, relating to local agency costs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990]

I am reducing the appropriation contained in Section 2 (a) (1) of Senate Bill No. 1333 by $47,870,155 as follows.

(A) For graduation requirements from $19,600,000 to $2,800,000.

(B) For notification of truancy from $21,020,000 to $2,708,000.

(C) For open meetings act from $1,737,000 to $373,000.

(E) For deficiencies in prior year reimbursement of mandated costs by deleting the $11,394,155 appropriation

Funding for the prior year's costs of these mandates is not as high as priority as reduced classroom sizes in K-12 school districts. It is my intent that not less than one-third of the funding for the programs described in Schedules (A) through (E) for the 1989–90 and prior fiscal years which I have deleted be provided in equal installments in each of the Governor's Budgets for 1991–92, 1992–93 and 1993–94 Fiscal Years.

With these reductions and deletion, I approve Senate Bill No. 1333

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 17581 is added to the Government Code, to read:

17581. (a) No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal year if all of the following apply:

(1) The statute or executive order, or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute or executive order, or portion thereof, has been

specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) Notwithstanding any other provision of law, if a local agency elects to implement or give effect to a statute or executive order described in subdivision (a), the local agency may assess fees to persons or entities which benefit from the statute or executive order. Any fee assessed pursuant to this subdivision shall not exceed the costs reasonably borne by the local agency.

(c) This section shall not apply to any state-mandated local program for the trial courts, as specifed in Section 77203.

(d) This section shall not apply to any state-mandated local program for which the reimbursement funding counts toward the minimum General Fund requirements of Section 8 of Article XVI of the Constitution.

SEC. 2. The sum of fifty-nine million three hundred fifteen thousand two hundred seventeen dollars ($59,315,217) is hereby appropriated, in accordance with the following schedule, to the Controller for the payment of claims for reimbursement of state-mandated costs, according to the following schedule:

(a) Fifty-eight million three hundred forty-one thousand one hundred fifty-five dollars ($58,341,155) from the General Fund, to be allocated as follows:

(1) Fifty-four million one hundred four thousand one hundred fifty-five dollars ($54,104,155) for reimbursement of claims from school districts and community college districts, to be allocated as follows:

(A) Nineteen million six hundred thousand dollars ($19,600,000) for the payment of claims of school districts seeking reimbursable state-mandated costs incurred pursuant to Chapter 498 of the Statutes of 1983 (graduation requirements), for the 1984–85, 1985–86, 1986–87, 1987–88, 1988–89, 1989–90, and 1990–91 fiscal years.

(B) Twenty-one million twenty thousand dollars ($21,020,000) for the payment of claims of school districts seeking reimbursable state-mandated costs incurred pursuant to Chapter 498 of the Statutes of 1983 (notification of truancy), for the 1983–84, 1984–85, 1985–86, 1986–87, 1987–88, 1988–89, 1989–90, and 1990–91 fiscal years.

(C) One million seven hundred thirty-seven thousand dollars ($1,737,000) for the payment of claims of school districts seeking reimbursable state-mandated costs incurred pursuant to Chapter 641 of the Statutes of 1986 (Open Meetings Act), for the period of August 29, 1986, to June 30, 1987, and the 1987–88, 1988–89, 1989–90, and 1990–91 fiscal years.

(D) Three hundred fifty-three thousand dollars ($353,000) for the

payment of claims of community college districts, seeking reimbursable state-mandated costs incurred pursuant to Chapter 1226 of the Statutes of 1984, Chapter 1526 of the Statutes of 1985 (Investments Reports), for the 1985–86, 1986–87, 1987–88, 1988–89, 1989–90, and 1990–91 fiscal years.

(E) Eleven million three hundred ninety-four thousand one hundred fifty-five dollars ($11,394,155) to cover deficiencies in prior appropriations for reimbursement of costs incurred under state-mandated programs.

(2) Four million two hundred thirty-seven thousand dollars ($4,237,000) for the payment of claims of other local governmental entities, as specified, to be allocated as follows:

(A) Three million seven hundred forty thousand dollars ($3,740,000) for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 815 of the Statutes of 1979, Chapter 1327 of the Statutes of 1984, and Chapter 757 of the Statutes of 1985 (Short-Doyle case management), for the 1990–91 fiscal year.

(B) Five thousand dollars ($5,000) for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 1013 of the Statutes of 1981, Chapter 218 of the Statutes of 1982, Chapter 896 of the Statutes of 1985, Chapter 188 of the Statutes of 1986, Chapter 667 of the Statutes of 1986, Chapter 2 of the Statutes of 1987, Chapter 84 of the Statutes of 1987, and Chapter 1083 of the Statutes of 1987 (Local Elections: Consolidation) for the 1990–91 fiscal year.

(C) Four hundred ninety-two thousand dollars ($492,000) for the restoration of funding for Chapter 332 of the Statutes of 1981 and Chapter 1425 of the Statutes of 1984 (victim's statements minors), for the 1990–91 fiscal year.

(b) Nine hundred seventy-four thousand sixty-two dollars ($974,062) from the Restitution Fund to cover deficiencies in prior appropriations for reimbursement of costs incurred under state-mandated programs.

(c) All amounts appropriated in paragraph (1) of subdivision (a) are for the purposes of meeting the funding guarantee for education programs pursuant to Section 8 of Article XVI of the California Constitution.

(d) If any of the scheduled amounts in subdivision (a) and (b) are insufficient to provide full reimbursement of costs, the Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein, except that unencumbered balances in any subparagraph of paragraph (1) of subdivision (a) may be used to augment deficient amounts only in those items. No order may be issued pursuant to this provision unless written notification of necessity is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her

designee.

SEC. 3. (a) It is the intent of the Legislature that the total amount of funding indicated for the reimbursement of the state-mandated costs incurred pursuant to the following programs in the 1989–90 and prior fiscal years shall be appropriated in equal installments in the Budget Acts of 1991, 1992, and 1993:

(1) Eighteen million seventy-four thousand dollars ($18,074,000) for Short-Doyle case management pursuant to Chapter 815 of the Statutes of 1979.

(2) One million one hundred fifty-five thousand dollars ($1,155,000) for victims' statements (minors) pursuant to Chapter 332 of the Statutes of 1981.

(3) Forty-two thousand dollars ($42,000) for local elections pursuant to Chapter 1013 of the Statutes of 1981.

(4) Five million five hundred seventy-six thousand dollars ($5,576,000) for subdivision mergers pursuant to Chapter 845 of the Statutes of 1983.

(5) Eleven million five hundred eighty-three thousand dollars ($11,583,000) for investment reports pursuant to Chapter 1226 of the Statutes of 1984.

(6) Three hundred thirteen thousand dollars ($313,000) for Short-Doyle audits pursuant to Chapter 1327 of the Statutes of 1984.

(7) Seven million four hundred eighteen thousand dollars ($7,418,000) for costs of compliance with Open Meetings Act requirements incurred pursuant to Chapter 641 of the Statutes of 1986.

(8) Ten million seven hundred nineteen thousand dollars ($10,719,000) for trial court delay reduction pursuant to Chapter 1335 of the Statutes of 1986.

(b) It is the intent of the Legislature that a total amount of five million forty-five thousand ninety-five dollars ($5,045,095) shall be appropriated in equal installments in the Budget Acts of 1991, 1992, and 1993 for deficiencies in 1987 appropriations.

SEC. 4. (a) The Commission on State Mandates shall amend the parameters and guidelines for Chapter 498 of the Statutes of 1983 (graduation requirements) to specify that costs related to the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.

(b) The Commission on State Mandates shall amend the parameters and guidelines for Chapter 875 of the Statutes of 1981 (interviews with potentially dependent children) to specify that the only costs reimbursable under this mandate are the portion of the costs included in the counties' required match for the Child Welfare Services Program and that are associated with interviews conducted from January 1982 to June 1982, inclusive. In addition, the

commission shall revise its cost estimate to reflect these amendments as well as the caseload and cost data submitted by counties to the State Department of Social Services.

(c) The Commission on State Mandates shall amend the parameters and guidelines for Chapter 1335 of the Statutes of 1986 (trial court delay reduction) prior to the disbursement of any funds to reimburse costs incurred pursuant to that chapter to specify that costs related to delay reduction program court operations incurred after January 1, 1989, are not reimbursable for counties participating in the Trial Court Funding Program.

(d) The Commission on State Mandates shall amend the parameters and guidelines for Chapter 48 of the Statutes of 1987 prior to the disbursement of any funds to reimburse costs incurred pursuant to that chapter to do both of the following: (1) to state explicitly that county costs to process and verify claims for exclusion of interfamily transfers from reassessment are not eligible for reimbursement; and (2) to allow reimbursement only for the costs of preparing reports that have been filed with the State Board of Equalization.

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 this act to apply to the 1990–91 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 460

An act to repeal and add Section 23402 of, and to repeal Section 23401 of, the Education Code, relating to public retirement systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 23401 of the Education Code is repealed.

SEC. 2. Section 23402 of the Education Code is repealed.

SEC. 3. Section 23402 is added to the Education Code, to read:

23402. (a) Commencing July 1, 1991, and annually thereafter, there is hereby continuously appropriated from the General Fund to the Controller, notwithstanding Section 13340 of the Government Code, for transfer to the Teachers' Retirement Fund an amount equal to 4.3 percent of the total of the salaries of the immediately preceding calendar year upon which members' contributions are based. The percentage shall be adjusted to reflect the contribution

required to fund the normal cost deficit when the unfunded obligation has been deemed to be eliminated by the board based upon a recommendation from its actuary. If a rate increase or decrease is required, the adjustment may be for no more than 0.25 percent per year and in no case may the transfer exceed 4.3 percent of the total of the salaries of the immediately preceding calendar year upon which members' contributions are based.

(b) The funds transferred pursuant to subdivision (a) shall first be applied to meeting the normal cost deficit, if any, for that fiscal year.

(c) The transfers made pursuant to this section are in lieu of the state contributions formerly made pursuant to Sections 23401 and 23402.

(d) For the purposes of this section, the term "normal cost deficit" means the difference between the normal cost rate as determined in the actuarial valuation required by Section 22226 and the total of the member contribution rate required under Section 22804 and the employer contribution rate required under Section 23400, and shall exclude (1) the portion for unused sick leave service granted pursuant to Section 22719, (2) the cost of benefit increases which occur after July 1, 1990. The contribution rates prescribed in Section 22804 and Section 23400 on July 1, 1990, shall be utilized to make the calculations. The normal cost deficit shall then be multiplied by the total of the salaries upon which member contributions are based to determine the dollar amount of the normal cost deficit for the year.

(e) Pursuant to Section 22001 and the case law, the members are entitled to a financially sound retirement system. The Legislature recognizes that the system shall, pursuant to this act, receive less funds in the short term than it would have received under former Sections 23401 and 23402 (Chapter 282 of the Statutes of 1979). However, it is the intent of the Legislature that this section shall provide the retirement fund stable and full funding over the long term.

(f) This section continues in effect but in a somewhat different form, fully performs, and does not in any way unreasonably impair, the contractual obligations determined by the court in California Teachers' Association v. Cory, 155 Cal. App. 3d 494.

(g) This section shall not be construed to be applicable to any unfunded liability resulting from any benefit increase or changes in contribution which occur after July 1, 1990.

SEC. 4. Section 3 of this act shall be construed and implemented to be in conformity with the judicial intent expressed by the court in California Teachers' Association v. Cory, 155 Cal. App. 3d 494.

SEC. 5. This act shall be known as, and may be cited as, the Elder State Teachers' Retirement System Full Funding Act.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the savings accorded to the General Fund by this act

may be effectuated at the earliest possible time, this act must take effect immediately.

CHAPTER 461

An act to amend Section 11006 of, and to add Section 13307 to, the Government Code, relating to state finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 11006 of the Government Code is amended to read:

11006. The Director of Finance may, in writing, authorize the creation of deficiencies in any appropriation of money made by law in cases of actual necessity and shall authorize the payment of deficiencies out of any money which may be appropriated for these purposes. No deficiency shall be authorized except upon the written authority, first obtained, as provided in this section. Any indebtedness attempted to be created against the state in violation of this section is void, and shall not be allowed by the director or the Controller.

SEC. 2. Section 13307 is added to the Government Code, to read:

13307. In determining whether the General Fund budget, in any given fiscal year, is in a surplus or deficit condition, the controlling factor shall be the fund balance which is the difference between total resources and total expenditures. In determining the fund balance, the following principles shall be applied:

(a) Encumbrances, which are any valid obligation for the delivery of goods or services, should not be counted as a budgetary expenditure until the delivery of the goods or services.

(b) The unencumbered balances of appropriations, which exist when no commitment for an expenditure is made, should be an item of disclosure, but the amount should not be deducted from the fund balance.

(c) Changes affecting a budget subsequent to publication of financial statements, such as actions to disencumber funds, should be reflected in budget documents after documentation is provided.

CHAPTER 462

An act to add Section 4019.5 to the Health and Safety Code, relating to public water systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990 Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 4019.5 is added to the Health and Safety Code, to read:

4019.5. (a) Notwithstanding any other provision of law, effective July 1, 1990, each public water system with at least 200 service connections shall pay to the department an annual fee of fifty cents ($0.50) for each service connection it serves. The department shall adopt emergency regulations specifying the method of payment of the fee. It is the intent of the Legislature that this fee will generate three million six hundred thousand dollars ($3,600,000) annually.

(b) The emergency regulations adopted pursuant to this section shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. 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, safety, and general welfare.

Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the department.

(c) A public water system may collect a fee from its customers to recover the fee paid pursuant to 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 for the revenue generated by the fee to be realized as soon as possible, it is necessary for this act to go into effect at the earliest possible time.

CHAPTER 463

An act to amend Sections 20751, 20752, and 20754 of, and to add Sections 20130.5 and 20750.100 to, the Government Code, relating to public retirement systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 20130.5 is added to the Government Code, to read:

20130.5. The board may adopt an amortization period of 40 years for any unfunded actuarial liability for the benefits applicable to all state miscellaneous members and all state peace officer/firefighter members.

SEC. 2. Section 20750.100 is added to the Government Code, to read:

20750.100. Notwithstanding any other provision of this part, the board may reduce the state's contribution to the retirement fund provided by any and all other provisions of this chapter in respect to state members during the 1990–91 fiscal year by an amount equal to the state's pro rata share, based upon the total assets of the system, in the reserve against deficiencies established by Section 20203.

SEC. 3. Section 20751 of the Government Code is amended to read:

20751. From the General Fund in the State Treasury there is appropriated quarterly to the Retirement Fund the state's contribution for:

(a) All state miscellaneous members and all other categories of members whose compensation is paid from the General Fund.

(b) All university members whose compensation is paid from funds of, or funds appropriated to, the university.

(c) All state miscellaneous members who are employed by the Department of Education or the Department of Rehabilitation and whose compensation is paid from the Vocational Education Federal Fund, the Vocational Rehabilitation Federal Fund, or any other fund received, in whole or in part, as a donation to the state under restrictions preventing its use for state contributions to the retirement system.

(d) All state miscellaneous members whose compensation is paid from the Senate Operating Fund or the Assembly Operating Fund or the Operating Funds of the Assembly and Senate.

SEC. 4. Section 20752 of the Government Code is amended to read:

20752. From each other fund in the State Treasury there is appropriated quarterly to the Retirement Fund the state's

contribution for all members whose compensation is paid from that fund and in respect to which compensation the state's contribution is not required to be made from the General Fund.

SEC. 5. Section 20754 of the Government Code is amended to read:

20754. The board shall certify to the Controller at the end of each quarter the total amount of compensation in respect to which state contributions are payable from the General Fund and each other fund in the State Treasury, and the Controller shall thereupon transfer the state's contribution from each fund, respectively, to the Retirement Fund. Compensation shall be included in the certification at the end of the month in which the member's contributions based upon it are paid.

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 savings accorded to the General Fund by this act may be effectuated at the earliest possible time, this act must take effect immediately.

CHAPTER 464

An act to amend Section 17053.5 of, and to amend, add, and repeal Sections 18805, 18815, and 26131 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) In the case of qualified renters, there shall be allowed credits against their "net tax" (as defined in Section 17039). The credit shall be in the amount of one hundred twenty dollars ($120) for married couples filing joint returns, heads of household and surviving spouses (as defined in Section 17046), and sixty dollars ($60) for other individuals.

Except as provided in subdivision (b), a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(1) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to

married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (e).

(2) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (e).

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who:

(1) Was a resident of this state, as defined in Section 17014, and

(2) Rented and occupied premises in this state which constituted his or her principal place of residence during at least 50 percent of the taxable year.

(d) The term "qualified renter" does not include any of the following:

(1) An individual who for more than 50 percent of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he or she or his or her landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value.

(2) An individual whose principal place of residence for more than 50 percent of the taxable year is with any other person who claimed such individual as a dependent for income tax purposes.

(3) An individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(e) Any otherwise qualified renter who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(f) Every person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(g) The credit provided in this section shall be claimed on returns in the form as the Franchise Tax Board may from time to time prescribe.

(h) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not

include land only, except in the case where the dwelling unit is a mobilehome. The credit shall not be allowed for any taxable year for the rental of land upon which a mobilehome is located if the mobilehome has been granted a homeowners' exemption under Section 218 in that year.

(i) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part the excess shall be credited against other amounts due, if any, from the qualified renter and the balance, if any, shall be refunded to the qualified renter.

SEC. 2. 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.

(e) This section shall remain in effect only until January 1, 1991, and as of that date is repealed.

SEC. 3. Section 18805 is added to the Revenue and Taxation Code, to read:

18805. (a) 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.

(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) (1) In the case of any disposition of a California real property interest by a person (but not a partnership as determined in accordance with Subchapter K of Chapter 1 of Subtitle A of the Internal Revenue Code), when the return required to be filed with the Secretary of the Treasury under Section 6045(e) of the Internal Revenue Code indicates, or the authorization for the disbursement of the transaction's funds instructs, that the funds be disbursed either to a transferor with a last known street address outside the boundaries of this state at the time of the transfer of the title to the California real property or to the financial intermediary of the transferor, the transferee shall be required to withhold a tax equal to 3⅓ percent of the sales price of the California real property conveyed.

(A) No transferee shall be required to withhold any amount under this subdivision if, in the taxable year during which the transfer of title by the transferor occurs, the transferor receives a homeowner's property tax exemption for the property conveyed.

(B) No transferee shall be required to withhold any amount under this subdivision if the sales price of the California real property conveyed does not exceed one hundred thousand dollars ($100,000).

(C) No transferee shall be required to withhold any amount under this subdivision unless written notification of the withholding requirements of this subdivision has been provided.

(2) (A) At the request of the transferor, the Franchise Tax Board may authorize that a reduced amount or no amount be withheld under this subdivision if the Franchise Tax Board determines that to substitute a reduced amount or no amount shall not jeopardize the collection of tax imposed by this part. If the transferor provides documentation sufficient for the Franchise Tax Board to determine the actual gain required to be recognized on the transaction, the Franchise Tax Board may authorize a reduced amount based on the amount of the gain, as determined which will result in a sum which

is substantially equivalent to the amount of tax reasonably estimated to be due under this part from the inclusion of the gain in the gross amount of the transferor.

(B) Within 45 days after receiving a request that a reduced amount or no amount be withheld, the Franchise Tax Board shall either authorize a reduced amount or no amount, or deny the request to substitute a reduced amount or no amount.

(C) In the case where the parties to the transaction have not requested that a reduced amount or no amount be withheld or the response by the Franchise Tax Board to the request has not been received at the time title to the California real property is transferred, the parties may direct the real estate escrow person to hold in trust for 45 days the amount required to be withheld under this subdivision. The parties shall instruct the real estate escrow person that at the end of 45 days the real estate escrow person shall remit the amount withheld to the Franchise Tax Board in accordance with this section, unless the Franchise Tax Board has authorized that a reduced amount or no amount be withheld.

(3) Amounts withheld and payments made in accordance with this subdivision shall be reported and remitted to the Franchise Tax Board in the form and at the time as the Franchise Tax Board shall determine.

(4) "California real property interest" means an interest in real property located in California and defined in Section 897(c)(1)(A)(i) of the Internal Revenue Code.

(5) For purposes of this subdivision, "financial intermediary" means an agent for the purpose of receiving and transferring funds to a principal.

(6) For purposes of this subdivision, "real estate escrow person" means any of the following persons involved in a real estate transaction in the following order of priority:

(A) The person (including any attorney, escrow company, or title company) responsible for closing the transaction.

(B) Any other person who receives and disburses the consideration or value for the interest or property conveyed.

(7) It shall be unlawful for any real estate escrow person to charge any customer for complying with the requirements of this subdivision, unless the real estate escrow person withholds and remits an amount to the Franchise Tax Board under this subdivision. In a case when the real estate escrow person is instructed by the parties to withhold under this subdivision and the real estate escrow person remits a withholding amount to the Franchise Tax Board, it shall be unlawful for the fee to exceed twenty-five dollars ($25).

(8) For purposes of this subdivision, "sales price" means the sum of all of the following:

(A) The cash paid, or to be paid. The term "cash paid, or to be paid" does not include stated or unstated interest or original issue discount (as determined by Sections 1271 to 1275, inclusive, of the Internal Revenue Code).

(B) The fair market value of other property transferred, or to be transferred.

(C) The outstanding amount of any liability assumed by the transferee or to which the California real property interest is subject immediately before and after the transfer.

(e) This section shall become operative on January 1, 1991.

SEC. 4. Section 18815 of the Revenue and Taxation Code is amended to read:

18815. (a) Every person required to deduct and withhold any tax is hereby made liable for such tax, to the extent provided by this section and, insofar as they are not inconsistent with the provisions of this article, all the provisions of this part relating to penalties, interest, assessment, and collections shall apply to persons subject to the provisions of this part, and for these purposes any amount required to be deducted and paid to the Franchise Tax Board under Section 18805 shall be considered the tax of the person. Any person who fails to withhold from any payments any amount required to be withheld under Section 18805 is liable for the amount withheld or the amount of taxes due from the taxpayer to whom the payments are made but not in excess of the amount required to be withheld, whichever is more, unless it is shown that the failure to withhold is due to reasonable cause.

(b) Whenever any person has withheld any amount pursuant to this article, the amount so withheld shall be held to be a special fund in trust for the State of California.

(c) The amount of tax required to be deducted and withheld under Section 18805 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.

(d) This section shall remain in effect only until January 1, 1991, and as of that date is repealed.

SEC. 5. Section 18815 is added to the Revenue and Taxation Code, to read:

18815. (a) Every person required to deduct and withhold any tax is hereby made liable for such tax, to the extent provided by this section and, insofar as they are not inconsistent with the provisions of this article, all the provisions of this part relating to penalties, interest, assessment, and collections shall apply to persons subject to the provisions of this part, and for these purposes any amount required to be deducted and paid to the Franchise Tax Board under Section 18805 shall be considered the tax of the person. Any person who fails to withhold from any payments any amount required to be withheld under Section 18805 is liable for the amount withheld or the amount of taxes due from the taxpayer to whom the payments are made but not in excess of the amount required to be withheld, whichever is more, unless it is shown that the failure to withhold is due to reasonable cause.

(b) Whenever any person has withheld any amount pursuant to

this article, the amount so withheld shall be held to be a special fund in trust for the State of California.

(c) Notwithstanding any other provision in this section, unless it is shown that the failure to withhold is due to reasonable cause, whenever any transferee is required to withhold any amount pursuant to subdivision (d) of Section 18805, the transferee is liable for the greater of the following amounts for failure to withhold only after the transferee, as specified, is notified in writing of the requirements under subdivision (d) of Section 18805:

(1) Five hundred dollars ($500).

(2) Ten percent of the amount required to be withheld under subdivision (d) of Section 18805.

(d) (1) Unless it is shown that the failure to notify is due to reasonable cause, the real estate escrow person shall be liable for the amount specified in subdivision (c), when written notification of the withholding requirements of subdivision (d) of Section 18805 is not provided to the transferee and the California real property disposition is subject to withholding under subdivision (d) of Section 18805.

(2) The real estate escrow person shall not be liable under this subdivision, if the tax due as a result of the disposition of California real property is paid by the original or extended due date of the transferor's return for the taxable year in which the disposition occurred.

(3) The real estate escrow person and the transferee shall not be liable under subdivisions (c) and (d), if the failure to withhold is the result of the real estate escrow person's reliance, based on good faith and on all the information of which he or she has knowledge, upon a written affidavit executed by the transferor that the transferor will not instruct escrow to disburse the transaction's proceeds outside the boundaries of this state, nor make use of a financial intermediary within the meaning of subdivision (d) of Section 18805.

(4) Any transferor who for the purpose of avoiding the withholding requirements of subdivision (d) of Section 18805 knowingly files a false affidavit pursuant to this subdivision shall be liable for twice the amount specified in subdivision (c).

(5) The real estate escrow person shall not be liable under this subdivision if the disposition of California real property occurs prior to July 1, 1991.

(e) The amount of tax required to be deducted and withheld under Section 18805 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) This section shall become operative on January 1, 1991.

SEC. 6. 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.

(g) This section shall remain in effect only until January 1, 1991, and as of that date is repealed.

SEC. 7. Section 26131 is added to the Revenue and Taxation Code, to read:

26131. (a) 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.

(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 subdivision (a) 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 greater, unless it is shown that the failure is due to reasonable cause.

(e) (1) In the case of any disposition of a California real property interest by a corporation, when the return required to be filed with the Secretary of the Treasury under Section 6045(e) of the Internal Revenue Code indicates, or the authorization for the disbursement of the transaction's funds instructs, that the funds be disbursed either to a transferor with a last known street address outside the boundaries of this state at the time of the transfer of the title to the California real property or to the financial intermediary of the transferor, the transferee shall be required to withhold a tax equal to 3⅓ percent of the sales price of the California real property conveyed.

(A) No transferee shall be required to withhold any amount under this subdivision if the sales price of the California real property conveyed does not exceed one hundred thousand dollars ($100,000).

(B) No transferee shall be required to withhold any amount under this subdivision unless written notification of the withholding requirements of this subdivision is provided by the real estate escrow person.

(C) No transferee shall be required to withhold under this subdivision when the transferor is a bank acting as trustee other than a trustee of a deed of trust.

(D) No transferee shall be required to withhold under this subdivision when the transferee is a mortgagee under a mortgage or beneficiary under a deed of trust and the California real property is

acquired in judicial or nonjudicial foreclosure or by deed in lieu of foreclosure.

(2) (A) At the request of the transferor, the Franchise Tax Board may authorize that a reduced amount or no amount be withheld under this subdivision if the Franchise Tax Board determines that to substitute a reduced amount or no amount shall not jeopardize the collection of tax imposed by this part.

(B) Within 45 days after receiving a request that a reduced amount or no amount be withheld, the Franchise Tax Board shall either authorize a reduced amount or no amount, or deny the request.

(C) In the case where the parties to the transaction have not requested that a reduced amount or no amount be withheld or the response to the request by the Franchise Tax Board has not been received at the time title to the California real property is transferred, the parties may direct the real estate escrow person to hold in trust for 45 days the amount required to be withheld under this subdivision. The parties shall instruct the real estate escrow person that at the end of 45 days the real estate escrow person shall remit the amount withheld to the Franchise Tax Board in accordance with this section, unless the Franchise Tax Board has authorized that a reduced amount or no amount be withheld.

(3) Amounts withheld and payments made in accordance with this subdivision shall be reported and remitted to the Franchise Tax Board in the form and at the time as the Franchise Tax Board shall determine.

(4) "California real property interest" means an interest in real property located in California and defined in Section 897(c)(1)(A)(i) of the Internal Revenue Code.

(5) For purposes of this subdivision, "financial intermediary" means an agent for the purpose of receiving and transferring funds to a principal.

(6) For purposes of this subdivision, "real estate escrow person" means any of the following persons involved in the real estate transaction in the following order of priority:

(A) The person (including any attorney, escrow company, or title company) responsible for closing the transaction.

(B) Any other person who receives and disburses the consideration or value for the interest or property conveyed.

(7) It shall be unlawful for any real estate escrow person to charge any customer for complying with the requirements of this subdivision, unless the real estate escrow person withholds and remits an amount to the Franchise Tax Board under this subdivision. In a case when the real estate escrow person is instructed by the parties to withhold under this subdivision and the real estate escrow person remits a withholding amount to the Franchise Tax Board, it shall be unlawful for the fee to exceed twenty-five dollars ($25).

(8) For purposes of this subdivision, "sales price" means the sum of all of the following:

(A) The cash paid, or to be paid. The term "cash paid, or to be paid" does not include stated or unstated interest or original issue discount (as determined by Sections 1271 to 1275, inclusive, of the Internal Revenue Code).

(B) The fair market value of other property transferred, or to be transferred.

(C) The outstanding amount of any liability assumed by the transferee or to which the California real property interest is subject immediately before and after the transfer.

(f) Whenever any person has withheld any amount pursuant to this section, the amount so withheld shall be held in trust for the State of California. The amount of the 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.

(g) This section shall become operative on January 1, 1991.

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 provide necessary funding to alleviate the current budget problems, it is necessary that this act go into immediate effect.

CHAPTER 465

An act to amend Section 114 of, and to add Section 10586 to, the Health and Safety Code, to amend Sections 15204.2 and 18906.5 of, and to add Sections 11055.5, 15204.6, 18902.5, and 18906.7 to, the Welfare and Institutions Code, relating to marriage certificates and public assistance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990]

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

SECTION 1. Section 114 of the Health and Safety Code is amended to read:

114. (a) The fees or charges for a record search or for the issuance of any certificate, permit, registration, or any other document pursuant to Sections 26840 and 26859 of the Government Code, or Sections 10375, 10376.8, 10400, 10420, 10430, 10433.3, 10450, 10455, 10470, 10475, 10500, 10550, 10575, 10585, 10586, 10605, 10606, 10610, 10610.2, 10612, 10613, 10614, 10615, 10616, 10617, 10618, and 10619 of this code, may be adjusted annually by the percentage change determined pursuant to Section 113.

The base amount to be adjusted shall be the statutory base amount of the fee or charge plus the sum of the prior adjustments to the statutory base amount. Whenever the statutory base amount is amended, the base amount shall be the new statutory base amount plus the sum of adjustments to the new statutory base amount calculated subsequent to the statutory base amendment. The actual dollar fee or charge shall be rounded to the next highest whole dollar.

(b) Beginning January 1, 1983, the state department shall annually publish a list of the actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 10586 is added to the Health and Safety Code, to read:

10586. (a) The State Registrar shall, upon request and payment of a fee, as provided in subdivision (c), supply to any applicant a decorative heirloom certificate, as described in subdivision (b), of any marriage registered with that official.

(b) The decorative heirloom certificate issued under subdivision (a) shall be of a distinctive design as determined by the state department and shall include the seal of the State of California and a facsimile of the State Registrar's signature, but shall include no elected official's signature. The certificate shall only contain identification information, as determined by the State Registrar.

(c) The fee required for the decorative heirloom certificate issued pursuant to this section shall be fifteen dollars ($15). The fee shall be utilized to reimburse the state department for the administrative costs of developing, preparing, and providing the decorative heirloom certificate and for a public awareness and advertising program to inform the public of the availability of the decorative heirloom certificate. The fee shall be deposited into the General Fund.

SEC. 3. Section 11055.5 is added to the Welfare and Institutions Code, to read:

11055.5. (a) Except as specified in subdivision (b), in the administration of the Aid to Families with Dependent Children program, all counties shall conduct an early fraud prevention and detection program pursuant to this section and regulations adopted by the department.

(b) Funding for an early fraud prevention and detection program pursuant to Section 15204.6 shall not be made to a county if the department determines that an early fraud prevention and detection program would not be cost-effective for the county.

(c) Funding for an early fraud prevention and detection program pursuant to Section 15204.6 shall not be available to a county until its operating plan for a program is approved by the department. No operating plan shall be approved by the department unless the plan contains assurances that the county will comply with the conditions

specified in subdivision (d).

(d) Each county which operates an early fraud prevention and detection program shall be subject to all of the following conditions:

(1) No intimidation of applicants or recipients shall occur, either by referral or threat of referral for a fraud investigation.

(2) Applicants shall not be referred for a fraud investigation until after they have completed and signed the application for aid.

(3) The referral and investigation shall not delay the receipt of aid, including immediate need payments, for eligible applicants and recipients.

(4) Uniformed investigators shall not be used by any county welfare department for its fraud prevention program.

(5) The county welfare department shall abide by the confidentiality requirements in Section 10850 and the requirements and protections in the California Right to Financial Privacy Act under Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code.

(6) The county shall make a referral for welfare fraud investigation when there is reason to believe that a person, on behalf of himself or herself or others, has done any of the following:

(A) Knowingly, and with intent to deceive or defraud, made a false statement or representation to obtain benefits, to obtain a continuance or increase of benefits, or to avoid a reduction of benefits.

(B) Knowingly, and with intent to defraud, failed to disclose a fact which, if disclosed, could result in a denial, reduction, or discontinuance of benefits.

(C) Accepted benefits knowing he or she was not entitled to those benefits, or accepted any amount of benefits knowing the amount of benefits received was greater than the amount to which he or she was entitled.

(D) Made any statement which he or she did not know to be true with reckless disregard of the truth, for the purpose of obtaining, continuing, or avoiding a reduction or denial of benefits.

(7) The county shall make a referral for fraud investigation when there are reasonable grounds to believe that fraud, as specified in paragraph (7), exists. Reasonable grounds exist when one or more of the following criteria exists:

(A) An overpayment or overissuance of benefits, or both, may result from an applicant's failure to report information pertinent to eligibility or benefits.

(B) A questionable situation exists and the applicant or third party acting on behalf of the applicant will not cooperate in providing necessary verification of information which would affect the applicant's eligibility or the amount of benefits for which the applicant is eligible.

(C) The county welfare program staff person finds conflicting information which could affect the applicant's eligibility or the amount of benefits for which the applicant is eligible, and any further

action on the part of that staff person could jeopardize the investigator's ability to investigate.

(D) The county is made aware of any situation involving the applicant that could involve embezzlement, collusion, conspiracy, trafficking, black marketing, or any other general program violations.

(E) The county is made aware of any situation in which the applicant may have forged, may have caused the forgery of, or is using a forgery of, any warrant or authorization to participate which has been negotiated.

(F) The county welfare program staff person has received an allegation of fraud with respect to the applicant from any governmental agency.

(G) The county has received a complaint containing facts which allege that a crime involving a public social services program, including, but not limited to, fraud, perjury, trafficking, or embezzlement, may occur.

SEC. 4. Section 15204.2 of the Welfare and Institutions Code is amended to read:

15204.2. The state shall pay 83.3 percent of the nonfederal administrative costs of administering the payment of aid grants under this part, except for the Aid to Families with Dependent Children program (AFDC). The state shall pay 50 percent of the nonfederal administrative costs of administering AFDC grants and the Emergency Assistance for Needy Families with Dependent Children Program, subject to Sections 15204.5 and 15204.6, but not including activities related to the collection of support from noncustodial parents and the determination of paternity in the case of a child born out of wedlock. In the event that the federal government does not provide funding for the non-AFDC collection of child support from noncustodial parents and the non-AFDC determination of paternity in the case of a child born out of wedlock, the state shall pay 75 percent of such non-AFDC administrative costs. The state shall pay 50 percent of the nonfederal share of the cost of eligibility and nonservice staff development pursuant to the regulations of the department.

SEC. 5. Section 15204.6 is added to the Welfare and Institutions Code, to read:

15204.6. The state shall pay 100 percent of the nonfederal administrative costs of administering an early fraud prevention and detection program in the implementation of Chapter 2 (commencing with Section 11200), pursuant to Section 11055.5, subject to Section 15204.5.

SEC. 6. Section 18902.5 is added to the Welfare and Institutions Code, to read:

18902.5. (a) Except as specified in subdivision (b), in the administration of this chapter all counties shall conduct an early fraud prevention and detection program pursuant to this section and regulations adopted by the department.

(b) Funding for an early fraud prevention and detection program pursuant to Section 18906.7 shall not be made to a county if the department determines that an early fraud prevention and detection program would not be cost-effective for the county.

(c) Funding for an early fraud prevention and detection program pursuant to Section 18906.6 shall not be available to a county until its operating plan for a program is approved by the department. No operating plan shall be approved by the department unless the plan contains assurances that the county will comply with the conditions specified in subdivision (d).

(d) Each county which operates an early fraud prevention and detection program shall be subject to all of the following conditions:

(1) No intimidation of applicants or recipients shall occur, either by referral or threat of referral for a fraud investigation.

(2) Applicants shall not be referred for a fraud investigation until after they have completed and signed the application for aid.

(3) The referral and investigation shall not delay the receipt of aid, including immediate need payments, for eligible applicants and recipients.

(4) Uniformed investigators shall not be used by any county welfare department for its fraud prevention program.

(5) The county welfare department shall abide by the confidentiality requirements in Section 10850 and the requirements and protections in the California Right to Financial Privacy Act under Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code.

(6) The county shall make a referral for welfare fraud investigation when there is reason to believe that fraud exists. Fraud exists when a person, on behalf of himself or herself or others, has done any of the following:

(A) Knowingly, and with intent to deceive or defraud, made a false statement or representation to obtain benefits, to obtain a continuance or increase of benefits, or to avoid a reduction of benefits.

(B) Knowingly, and with intent to defraud, failed to disclose a fact which, if disclosed, could result in a denial, reduction, or discontinuance of benefits.

(C) Accepted benefits knowing he or she was not entitled to those benefits, or accepted any amount of benefits knowing the amount of benefits received was greater than the amount to which he or she was entitled.

(D) Made any statement which he or she did not know to be true with reckless disregard of the truth, for the purpose of obtaining, continuing, or avoiding a reduction or denial of benefits.

(7) The county shall make a referral for fraud investigation when there are reasonable grounds to believe that fraud, as specified in paragraph (7) exists. Reasonable grounds exist when one or more of the following criteria exists:

(A) An overpayment or overissuance of benefits, or both, may

result from an applicant's failure to report information pertinent to eligibility or benefits.

(B) A questionable situation exists and the applicant or third party acting on behalf of the applicant will not cooperate in providing necessary verification of information which would affect the applicant's eligibility or the amount of benefits for which the applicant is eligible.

(C) The county welfare program staff person finds conflicting information which could affect the applicant's eligibility or the amount of benefits for which the applicant is eligible, and any further action on the part of that staff person could jeopardize the investigator's ability to investigate.

(D) The county is made aware of any situation involving the applicant that could involve embezzlement, collusion, conspiracy, trafficking, black marketing, or any other general program violations.

(E) The county is made aware of any situation in which the applicant may have forged, may have caused the forgery of, or is using a forgery of, any warrant or authorization to participate which has been negotiated.

(F) The county welfare program staff person has received an allegation of fraud with respect to the applicant from any governmental agency.

(G) The county has received a complaint containing facts which allege that a crime involving a public social services program, including, but not limited to, fraud, perjury, trafficking, or embezzlement may occur.

SEC. 7. Section 18906.5 of the Welfare and Institutions Code is amended to read:

18906.5. The state shall pay 50 percent of the nonfederal costs of administering the Food Stamp program, subject to Sections 18906 and 18906.7. The counties shall pay the remaining 50 percent share of the nonfederal costs.

SEC. 8. Section 18906.7 is added to the Welfare and Institutions Code, to read:

18906.7. The state shall pay 100 percent of the nonfederal costs of administering an early fraud prevention and detection program in the administration of this chapter, established under Section 18902.5, subject to Section 18906.

SEC. 9. 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become

operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 10. The sum of two million three hundred thousand dollars ($2,300,000) is hereby appropriated from the General Fund to the State Department of Social Services for allocation to counties without regard to fiscal years for purposes of this act.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to apply this act in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 466

An act to amend Sections 77200 and 77201 of, and to add Article 12 (commencing with Section 29950) to Chapter 2 of Division 3 of Title 3 of, the Government Code, and to amend Section 97 of, to add Section 97.43 to, and to add Chapter 1.5 (commencing with Section 7284) to Part 1.7 of Division 2 of, the Revenue and Taxation Code, relating to local government financing.

[Approved by Governor July 31, 1990. Filed with Secretary of State July 31, 1990.]

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

SECTION 1. Article 12 (commencing with Section 29550) is added to Chapter 2 of Division 3 of Title 3 of the Government Code, to read:

Article 12. Criminal Justice Administrative Fee

29550. Notwithstanding any other provision of law, a county may impose a fee upon a city, special district, school district, community college district, college, or university for reimbursement of county expenses incurred with respect to the booking or other processing of persons arrested by an employee of that city, special district, school district, community college district, college, or university, where the arrested persons are brought to the county jail for booking or detention. The fee imposed by a county pursuant to this section shall not exceed the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87 standards, incurred in booking or otherwise processing arrested persons. A county may submit an invoice to a city, special district, school district, community college district, college, or university for these expenses incurred by the county on and after July 1, 1990.

SEC. 2. Section 77200 of the Government Code is amended to

read:

77200. (a) Except as provided in subdivisions (b) and (c) with respect to newly created judgeships, the Controller shall transmit to each option county quarterly payments on the block grant owing to that county based upon the number of judges, court commissioners, and referees in the county, as determined pursuant to Section 77202, multiplied each quarter by the following amounts:

(1) For the 1990–91 fiscal year, the sum of forty-four thousand nine hundred forty-four dollars ($44,944).

(2) For the 1991–92 fiscal year and each fiscal year thereafter, the sum of fifty thousand five hundred sixty-two dollars ($50,562), as adjusted pursuant to Section 77201.

(b) With respect to judgeships authorized by Chapter 1211 of the Statutes of 1987, for any new judgeship in excess of 10 new judgeships for a particular option county, if the county's average quarterly appropriation for court operations for the 1987–88 fiscal year, as determined by the Controller, divided by the number of judges, referees, and court commissioners determined pursuant to Section 77202 for that year (the base year quarterly cost per judge), exceeds the applicable sum specified in subdivision (a) as adjusted pursuant to Section 77201 (the base year quarterly block grant), instead of the quarterly multiplier determined pursuant to subdivision (a), the quarterly multiplier for each such new judgeship shall be:

(1) For the first four quarters following the creation of that judgeship, the base year quarterly cost per judge.

(2) For the second four quarters thereafter, the applicable sum specified in subdivision (a) as adjusted pursuant to Section 77201 (the standard current quarterly block grant), plus 75 percent of the difference between the base year quarterly cost per judge and the base year quarterly block grant.

(3) For the third four quarters thereafter, the standard current quarterly block grant, plus 50 percent of the difference between the base year quarterly cost per judge and the base year quarterly block grant.

(4) For the fourth four quarters thereafter, the standard current quarterly block grant, plus 25 percent of the difference between the base year quarterly cost per judge and the base year quarterly block grant.

For purposes of this subdivision, a judgeship created upon the adoption of a resolution by the board of supervisors shall be deemed to be created in the quarter in which the resolution is adopted.

(c) With respect to judgeships authorized by statutes which take effect on or after January 1, 1990, if the county's average quarterly appropriation for court operations for the fiscal year preceding the effective date of that statute, as determined by the Controller, reduced by the average quarterly amount of funds, if any, received during that fiscal year pursuant to Section 77207, divided by the number of judges, referees, and court commissioners determined pursuant to Section 77202 for that year (the base year quarterly cost

per judge), exceeds the quarterly multiplier for the fiscal year in which the statute takes effect (the comparison year quarterly block grant), instead of the quarterly multiplier determined pursuant to subdivision (a), the quarterly multiplier for each such new judgeship shall be:

(1) For the first fiscal year following the effective date of the statute authorizing that judgeship, the base year quarterly cost per judge.

(2) For the second fiscal year thereafter, the applicable sum specified in subdivision (a) for each quarter of the current fiscal year as adjusted pursuant to Section 77201 (the standard current quarterly block grant), plus 75 percent of the difference between the base year quarterly cost per judge and the comparison year quarterly block grant.

(3) For the third fiscal year thereafter, the standard current quarterly block grant, plus 50 percent of the difference between the base year quarterly cost per judge and the comparison year quarterly block grant.

(4) For the fourth fiscal year thereafter, the standard current quarterly block grant, plus 25 percent of the difference between between the base year quarterly cost per judge and the comparison year quarterly block grant.

(d) In any year in which the block grants provided pursuant to subdivision (a) are reduced, a county may reduce total expenditures for court operations by an amount up to but not exceeding the total dollar amount of the reduction to the county in state block grant funding.

(e) Quarterly payments shall be transmitted by the Controller on or before the 15th day of that quarter, except that payments for the quarter beginning January 1, 1989, shall be made no later than February 15, 1989.

SEC. 3. Section 77201 of the Government Code is amended to read:

77201. (a) Except as provided in subdivision (b), the sum set forth in subdivision (a) of Section 77200 shall be adjusted each fiscal year by a percentage equal to the average percentage salary increase for the previous fiscal year for California state employees, as determined pursuant to Section 68203, beginning with an adjustment for the 1989–90 fiscal year based on the 1988–89 state employees' average percentage salary increase.

(b) There shall be no such adjustment for the 1990–91 fiscal year.

SEC. 4. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3, 97.32, 97.35, 97.37, and 97.38 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).

(e) (1) Notwithstanding any other provision of law, for the 1990–91 fiscal year, for the purposes of the computations required by this section, the amount of property tax presumed to have been received by the county in the prior year shall be increased by the amount of 1989–90 property tax administrative costs proportionately attributable to incorporated cities as determined pursuant to paragraph (2).

(2) The auditor shall determine the 1989–90 fiscal year property tax administrative costs proportionately attributable to incorporated cities by adding the 1989–90 fiscal year property tax-related costs of the assessor, tax collector, and auditor, including applicable administrative overhead costs as permitted by federal Circular A-87 standards, and multiplying the sum of those amounts by the ratio of property tax revenue received by all incorporated cities divided by the total property tax revenue for all local jurisdictions in the county for that fiscal year.

(3) The county shall use the additional revenue received pursuant to this subdivision only to fund the actual costs of assessing, collecting, and allocating property taxes. At least once each fiscal year, the county auditor shall report the amount of these actual costs and allowable overhead costs to the legislative body and any other jurisdiction or person that request the information. To the extent that actual costs for assessing, collecting, and allocating property taxes plus allowable overhead costs are less than the amount determined pursuant to paragraph (2), the county auditor shall apportion the difference to each incorporated city as otherwise required by this section.

(4) The county may retain up to one-half of any increased property tax allocation to which a jurisdiction may be otherwise

entitled, until the county receives its additional revenues pursuant to this section.

(5) It is the intent of the Legislature in enacting this subdivision to recognize that since the adoption of Article XIII A of the California Constitution by the voters, county governments have borne an unfair and disproportionate part of the financial burden of assessing, collecting, and allocating property tax revenues for cities. It is further the intent of the Legislature that the adjustments provided for by this subdivision shall constitute charges by a county for the assessment, collection, and allocation of property taxes and shall not exceed the actual costs reasonably borne by a county for those activities.

(f) The auditor may determine the 1989–90 fiscal year property tax administrative costs proportionately attributable to local jurisdictions other than the county or city and county, and cities, by adding the property tax-related costs of the assessor, tax collector, and auditor, including applicable administrative overhead costs as permitted by federal Circular A-87 standards, and multiplying the sum of those amounts by the ratio of property tax revenue received by jurisdictions other than the county, city and county, and cities divided by the total property tax received by all local jurisdictions in the county for that fiscal year. Notwithstanding any other provision of law, this amount may be calculated for each fiscal year commencing with the 1989–90 fiscal year, and the auditor may, commencing in fiscal year 1990–91, submit an invoice to these jurisdictions for services rendered in the prior fiscal year.

SEC. 5. Section 97.43 is added to the Revenue and Taxation Code, to read:

97.43. Notwithstanding any other provision of this article, a qualifying city shall not receive a property tax revenue allocation in the 1990–91 fiscal year which is greater than 90 percent of the allocation received by that qualifying city in the 1989–90 fiscal year.

SEC. 6. Chapter 1.5 (commencing with Section 7284) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 1.5. COUNTY TAX LEVY POWERS AND LIMITATIONS

7284. (a) The board of supervisors of any county may license, for revenue and regulation, and fix the license tax upon, every kind of lawful business transacted in the unincorporated area of the county, including shows, exhibitions, and games. The board may provide for collection of the license tax by suit or otherwise.

(b) Any board which imposes a license tax pursuant to subdivision (a) upon a business operating both within and outside the board's taxing jurisdiction shall levy the tax so that the measure of tax fairly reflects that proportion of the taxed activity actually carried on within the taxing jurisdiction.

7285. The board of supervisors of any county may levy a utility user tax on the consumption of electricity, gas, water, sewer,

telephone, telegraph, and cable television services in the unincorporated area of the county.

7286. Any tax levied pursuant to this chapter shall be subject to any applicable voter approval requirement imposed by any other provision of law. Revenues collected pursuant to any tax imposed pursuant to this section may be reserved for local purposes as determined by the board of supervisors of the county imposing the tax.

SEC. 7. 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 467

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1990 Filed with Secretary of State July 31, 1990.]

I object to the following appropriations contained in Senate Bill No. 899

Item 0510-001-001—For support of the State and Consumer Services Agency. I reduce this item from $856,000 to $855,000 by reducing·

(a) Support from $870,000 to $869,000,

and by deleting Provision 1

I am deleting Provision 1 which would require the State and Consumer Services Agency to implement, within the Department of General Services, a centralized certification procedure for Minority and Women Business Enterprises because the Department of General Services has established a process to implement Chapter 61, Statutes of 1988 The effectiveness of this process should be evaluated before any further substantive changes are contemplated Additionally, this language would result in increased costs to the state and delays in the procurement of critically needed goods and services Although funds have not been budgeted for these additional costs, I am reducing $1,000 which represents savings that will be achieved based on vetoing language contained in Provision 1 of this item

Item 0530-001-001—For support of the Secretary for the Health and Welfare Agency I reduce this item from $1,749,000 to $1,549,000 by reducing:

(a) Support from $4,698,000 to $4,498,000,

and by deleting Provision 1

I am reducing this item by $200,000 to eliminate the funding for an Office of Minority Health Affairs as proposed to be established by AB 1561

Existing programs within the Department of Health Services and other departments within the Health and Welfare Agency effectively address minority health problems The legislative augmentation proposed by this item would add another costly level of administrative structure that is not necessary.

I am deleting Provision 1 to conform to this action.

Item 0585-001-001—For support of the World Trade Commission I reduce this item from $2,062,000 to $2,061,000 to conform to the action I have taken in Item 0585-001-981

Item 0585-001-981—For support of the World Trade Commission I reduce this item from $2,062,000 to $2,061,000 by reducing·

(b) 300000 Operating Expenses and Equipment from $934,000 to $933,000,

and by deleting Provision 1

I am reducing this item by $1,000 and delete Provision 1 which was added by the Legislature to require the World Trade Commission to report to the Legislature quarterly on the Export Finance Targeted Marketing Program for minority and women owned businesses This provision assumes the creation of an additional program and unnecessarily interferes with the Administration's ability to manage its programs. It would invariably result in increased costs to the state

Item 0690-001-001—For support of Office of Emergency Services. I reduce this item from $19,371,000 to $19,155,000 by reducing

(b) 35-Plans and Preparedness from $14,983,000 to $14,767,000,

and by deleting Provision 9

I am deleting the $216,000 legislative augmentation for a loan to the City and County of San Francisco for modular units for interim use by the San Francisco Emergency Command Center. It has not been established that this project is of sufficiently high priority to justify the use of limited state resources Furthermore, the leasing of facilities for local emergency command centers is not part of the Office of Emergency Services' regular program function and would set an undesirable precedent.

Item 0820-001-001—For support of Department of Justice I reduce this item from $187,090,000 to $182,722,000 by reducing

(a) 11.01-Executive-Administration from $55,668,000 to $52,800,000,

(b) 11 02-Distributed Executive-Administration from −$55,668,000 to −$52,800,000,

(c) 25-Executive Programs from $5,903,000 to $5,841,000,

(d) 30-Civil Law from $40,498,000 to $40,059,000,

(e) 40-Criminal Law from $48,084,000 to $47,645,000,

(f) 45-Public Rights from $22,870,000 to $22,608,000,

(g) 50-Law Enforcement from $181,030,000 to $175,413,000,

(h) Reimbursements from −$50,560,000 to −$47,676,000,

(j) Amount payable from the Hazardous Waste Control Account, General Fund (Item 0820-001-014) from −$1,183,000 to −$1,145,000,

(k) Amount payable from the Fingerprint Fees Account, General Fund (Item 0820-001-017) from −$18,210,000 to −$17,621,000,

(m) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0820-001-044) from −$16,685,000 to −$16,146,000,

(n) Amount payable from the Hazardous Substance Account, General Fund (Item 0820-001-455) from −$1,685,000 to −$1,630,000,

(o) Amount payable from the Dealers' Record of Sale Special Account, General Fund (Item 0820-001-460) from −$6,972,000 to −$6,544,000,

(q) Amount payable from the Gaming Registration Account, General Fund (Item 0820-001-477) from −$302,000 to −$292,000,

(r) Amount payable from the Federal Trust Fund (Item 0820-001-890) from −$9,708,000 to −$9,618,000, and

(t) Amount payable from the State Forfeiture Account, Special Deposit Fund (Item 0820-011-942) from −$2,893,000 to −$1,346,000, and by adding:

unallocated Reduction −$3,729,000.

I am deleting the $2,101,000 legislative augmentation of which $1,462,000 is payable from the State Forfeiture Account, Special Deposit Fund, and 13.3 personnel years to implement two regional Deoxyribonucleic Acid (DNA) laboratories and expand analysis of blood sample submissions pursuant to Penal Code Section 290 2 While I am supportive of efforts to incorporate the use of forensic DNA analysis in the state's efforts to solve violent crimes and have sustained funding in the budget to continue operation of the state's first DNA laboratory in Berkeley, expansion of the DNA program is premature since the standardized analytical protocol and management systems have not been fully developed and the DNA technology has not been allowed to mature I have taken conforming action in Item 0820-011-942

I am deleting the $2,868,000 legislative augmentation, payable from various items ($1,484,000) and Reimbursements ($1,384,000) totalling $2,868,000 for increases to facilities operations because it is not clear that the department has exhausted available budget prioritization and allocation processes to manage its facilities operations expenses within available resources. As a result, I am not able to fully assess the merits of the augmentation or the appropriateness of the requested level of funding This request should be submitted through the normal budget development process for review against competing needs for these fund sources

This action conforms to actions taken in the following items 0820-001-014 ($38,000); 0820-001-017 ($589,000), 0820-001-044 ($539,000); 0820-001-455 ($55,000), 0820-001-460 ($78,000), 0820-001-477 ($10,000), and 0820-001-890 ($90,000); and 0820-011-942 ($85,000)

I am further reducing this item by an unallocated reduction in the amount of $3,729,000 I will support a deficiency appropriation to offset this reduction from any available asset forfeiture funds

I am deleting $1,500,000 in Reimbursements from the CrackDown Task Force program Last year, I signed SB 1661 (Chapter 1453, Statutes of 1989) which authorized the Department of Justice to establish crackdown task forces to investigate and apprehend members of Columbian cartel-street gang cocaine networks. While the legislation appropriated $13.4 million for the implementation of the program, $1.5 million remains unspent and could be used to support the program's operation in the 1990-91 fiscal year Because Chapter 1453, Statutes of 1989, funding is available for use in the program, I am reducing $1 5 million in reimbursements, funded from federal anti-drug abuse funds through the Office of Criminal Justice Planning. This action will still maintain the CrackDown Task Force program at the $22.4 million funding level I proposed in January, and conforms to action I have taken in Item 8100-101-890

I am deleting $350,000 from the $4,071,000 legislative augmentation, payable from the Dealers' Record of Sale Special Account, General Fund, to implement the new firearms program established by Chapter 9, Statutes of 1990. The $350,000, which the department proposed to use to modify its fingerprint room would be a major capital outlay expense which should be requested and budgeted through the normal capital outlay budget process This action conforms to action taken in Item 0820-001-460.

Item 0820-001-014—For support of Department of Justice I reduce this item from $1,183,000 to $1,145,000.

I am reducing this item by $38,000 to conform to the action I have taken in Item 0820-001-001.

Item 0820-001-017—For support of Department of Justice. I reduce this item from $18,210,000 to $17,621,000

I am reducing this item by $589,000 to conform to the action I have taken in Item 0820-001-001

Item 0820-001-044—For support of Department of Justice I reduce this item from $16,685,000 to $16,146,000

I am reducing this item by $539,000 to conform to the action I have taken in Item 0820-001-001.

Item 0820-001-455—For support of Department of Justice. I reduce this item from $1,685,000 to $1,630,000

I am reducing this item by $55,000 to conform to the action I have taken in Item 0820-001-001.

Item 0820-001-460—For support of Department of Justice. I reduce this item from $6,972,000 to $6,544,000

I am reducing this item by $428,000 to conform to the action I have taken in Item 0820-001-001

Item 0820-001-477—For support of Department of Justice. I reduce this item from $302,000 to $292,000

I am reducing this item by $10,000 to conform to the action I have taken in Item 0820-001-001.

Item 0820-001-890—For support of Department of Justice. I reduce this item from $9,708,000 to $9,618,000

I am reducing this item by $90,000 to conform to the action I have taken in Item 0820-001-001

Item 0820-011-942—For support of Department of Justice. I reduce this item from $2,893,000 to $1,346,000.

I am reducing this item by $1,547,000 to conform to the actions I have taken in Item 0820-001-001

Item 0840-001-001—For support of State Controller I reduce this item from $72,659,000 to $72,534,000 by reducing

(b) 300000 Operating Expenses and Equipment from $40,069,010 to $39,944,010

I am reducing $125,000 from this item because AB 2721, Statutes of 1990, authorizes the Controller to be reimbursed for costs of administering the Surplus Money Investment Fund program from the earnings of that program rather than from the General Fund, resulting in an overfunding of $125,000.

Item 1150-008-421—For support of Bureau of Automotive Repair. I reduce this item from $71,557,000 to $71,556,000 by reducing·

(a) 12-Bureau of Automotive Repair from $71,675,000 to $71,674,000,

and by deleting Provision 1.

I am reducing this item by $1,000. The language in Provision 1 prohibits the Bureau from contracting with the California Youth Authority for parts exemption services and requires the Bureau to develop and manage these services in-house. My January proposal provides for restitution and rehabilitation of the wards while providing these services at a lower cost. Therefore, the restriction placed on this item interferes with the Administration's ability to manage its programs and would result in increased costs to the state. The Bureau would incur at least $1,000 of cost to hire additional staff Although funds have not been budgeted for these additional costs, I am reducing $1,000 which represents savings that will be achieved based on vetoing language contained in Provision 1 of this item

Item 1390-046-758—For support of the Medical Board of California I reduce this item from $9,609,000 to $9,509,000 by reducing

(a) 63 10 010-Medical Board of California from $10,182,500 to $10,082,500,

and by deleting Provisions 1 and 2.

I am deleting Provision 1 which specifies that January 1, 1991 through June 30, 1991 funding for this item is to be sought through the Section 27.00 process and is contingent upon a 15 percent reduction in the backlog of unassigned investigative cases by November 1990. This language is overly restrictive and fails to provide an appropriation for funding the second half of the fiscal year which could have the unintended effect of preventing the Board from continuing to provide consumer protection and reduce the investigative case backlog I do not oppose the Legislature's direction to reduce the case backlog and will support urgency legislation to restore full funding to the Board to be available upon attainment of this goal.

I am deleting the $100,000 legislative augmentation for the Auditor General to contract for an evaluation of the Board's Enforcement and Complaint Intake Systems as specified. To the extent that the Legislature would like the Auditor General to

execute a study of these systems, I believe the Auditor General is sufficiently funded to prioritize its workload and accomplish such a study within existing resources

I am deleting Provision 2 to conform to this action

Item 1500-068-770—For support of State Board of Registration for Professional Engineers and Land Surveyors I reduce this item from $4,653,000 to $4,652,000 by reducing

(a) 75-State Board of Registration for Professional Engineers and Land Surveyors from $4,657,000 to $4,656,000,

and by deleting Provision 1

I am reducing this item by $1,000 The language in Provision 1 prohibits the Board from contracting with the Prison Industries Authority for microfilming services My January proposal provides for restitution and rehabilitation of the inmates while providing these services at a low cost to the state Therefore, the restriction placed on this item interferes with the Administration's ability to manage its programs and would result in increased costs to the state The Board would incur at least $1,000 of additional cost to secure another contract to provide these services Although funds have not been budgeted for these additional costs, I am reducing $1,000 which represents savings that will be achieved based on vetoing language contained in Provision 1 of this item

I am deleting Provision 1 to conform with this action.

Item 1700-001-001—For support of the Department of Fair Employment and Housing I reduce this item from $10,695,000 to $10,694,000 by reducing.

(a) 50-Administration of Civil Rights Law from $13,548,000 to $13,547,000,

and by deleting Provision 1

I am reducing this item by $1,000 During 1986-87, the Department of Fair Employment and Housing consolidated the operations of the San Francisco legal office into the Sacramento legal office and eliminated the Boalt Hall Employment Discrimination Clinic The Legislature has transferred funds from the Department of Fair Employment and Housing main support item to newly created items for the Los Angeles legal office, San Francisco legal office and the Boalt Hall Employment Discrimination Clinic. The amounts appropriated in these three items are based on the premise that all rent and other operating expenses for the legal offices will be paid from the main support item. However, the language in Provision 1 specifically precludes any transfer of funds to pay for the rent and other operating expenses in the three newly created items. The Department of Fair Employment and Housing would incur at least $1,000 of cost to relocate staff and pay the support expenses related to reestablishing the San Francisco legal office and the Boalt Hall Clinic. Although funds have not been budgeted for these administrative costs, I am reducing $1,000 which represents the savings that will be achieved based on vetoing language contained in Provision 1 of this item and similar provisions in the newly created items.

I am deleting Provision 1 to conform to this action

Provision 1 is inconsistent with the separation of powers provision concerning the Executive Branch authority and represents a substantive change of law.

Item 1700-011-001—For support of the Department of Fair Employment and Housing. I revise the language in this item and delete Provision 1.

The Department of Fair Employment and Housing has a district office in Los Angeles which employs attorneys to handle civil rights cases. The department does not consider the legal staff in Los Angeles to constitute a legal office, therefore, I am revising this item to read:

"1700-011-001—For support of the Department of Fair Employment and Housing ; ~~Los Angeles Legal Office~~ "

I am deleting Provision 1 because this provision and the location specified in the item (Los Angeles Legal Office) are inconsistent with two constitutional provisions. First, the language violates the separation of powers provision concerning the Executive Branch authority Second, inasmuch as existing law does not define or reference the Los Angeles Legal Office, the language represents a substantive change of law which can only be included within a single subject bill, rather than the Budget Act.

The Director of the Department of Fair Employment and Housing should be provided the opportunity to relocate staff and allocate funds to meet departmental needs which this language would prohibit

Item 1700-021-001—For support of the Department of Fair Employment and Housing. I reduce this item from $441,000 to $440,000, revise the language in this item, and delete Provision 1

The relocation of staff from Sacramento to San Francisco to reestablish a legal office would cost at least $1,000. In 1986-87 the department closed the San Francisco legal office and consolidated the positions with the Sacramento office and evidence has not been provided to justify the reopening of this office Although relocation costs have not been budgeted in 1990-91, I am reducing $1,000 from this item to reflect savings that will be achieved based on vetoing language contained in Provision 1 of this item

I am revising the language in the item to conform to this action

"1700-021-001—For the support of the Department of Fair Employment and Housing ~~; San Francisco Legal Office~~ ."

I am deleting Provision 1 because this provision and the location specified in the item (San Francisco Legal Office) are inconsistent with two constitutional provisions First, the language violates the separation of powers provisions concerning the Executive Branch authority Second, inasmuch as existing law does not define or reference the San Francisco Legal Office, the language represents a substantive change of law.

Item 1700-031-001—For support of the Department of Fair Employment and Housing I reduce this item from $73,000 to $72,000, revise the language in this item, and delete Provision 1.

The relocation of staff from Sacramento to Berkeley to reestablish a legal clinic at Boalt Hall School of Law would cost at least $1,000 In 1986-87 the department closed the Boalt Hall legal clinic and evidence has not been provided to justify the reopening of this clinic. Although relocation costs have not been budgeted in 1990-91, I am reducing $1,000 from this item to reflect savings that will be achieved based on vetoing language contained in Provision 1 of this item

I am revising the language in the item to conform to this action.

"1700-031-001—For the support of the Department of Fair Employment and Housing ~~; Boalt Hall Employment Discrimination Clinic~~ ."

I am deleting Provision 1 because this provision and the location specified in the item (Boalt Hall Employment Discrimination Clinic) are inconsistent with two constitutional provisions First, the language violates the separation of powers provision concerning Executive Branch authority. Second, inasmuch as existing law does not define or reference the Boalt Hall Employment Discrimination Clinic, the language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act.

Item 1730-001-001—For support of Franchise Tax Board. I reduce this item from $196,285,000 to $195,892,000 by reducing·

(a) 10-Tax Programs from $199,287,000 to $198,894,000

I am deleting the $393,000 legislative augmentation for the collection of delinquent accounts receivable items. This General Fund augmentation to support in-house tax collections will not result in a sufficient benefit/cost ratio to justify the use of limited state resources These accounts receivable items can be satisfactorily collected through the continued use of private collection agencies under Sections 18839 and 26256 of the Revenue and Taxation Code.

Item 1760-001-001—For support of the Department of General Services I reduce this item from $1,128,000 to $858,000.

I am reducing this item by $270,000 which the Legislature added for a refrigerant recycling program to conform to the action I have taken in Item 1760-001-666

Item 1760-001-002—For support of the Department of General Services. I reduce this item from $1,629,000 to $1,514,000 and delete Provision 1

I am deleting Provision 1 and reducing this item by $115,000 which the Legislature redirected to fund a Proactive Assets Management Task Force to conform to actions taken in Item 1760-001-666.

Item 1760-001-666—For support of the Department of General Services. I reduce this item from $346,377,000 to $345,859,000 by reducing:

(a) 100000-Personal Services from $199,579,000 to $199,373,000,

(b) 300000-Operating Expenses and Equipment from $272,937,000 to $272,239,000,

(d) Amount payable from the General Fund (Item 1760-001-001) from −$1,128,000 to −$858,000,

(f) Amount payable from the Property Acquisition Law Account, General Fund (Item 1760-001-002) from −$1,629,000 to −$1,514,000, and

(vx) Amount payable from the General Fund (Item 1760-031-001) from −$180,000 to −$179,000,

and by deleting Provisions 10 and 11

I am deleting the $270,000 legislative augmentation to establish a refrigerant recycling program for the state fleet. While I support efforts to protect the environment, this project is not of sufficiently high priority to justify the use of limited state General Fund resources

I am deleting the legislative augmentation to conform to the action taken in Item 1760-001-001

I am deleting the legislative redirection of $115,000 which would establish a Proactive Assets Management Task Force Through Executive Order D77-89, I have already established an asset management function within the Governor's Office of Planning and Research. The office is responsible for overseeing and coordinating a state assets management program

The creation of a new task force is unnecessary and premature The Department of General Services is identifying assets available for projects through a continued, extensive review of the real property inventory system. It is more prudent and effective for the appropriate government agencies to develop specific asset management policies and proposals for Legislative review

I am deleting the legislative augmentation to conform to the action taken in Item 1760-001-002

I am deleting the $518,000 legislative augmentation to the Office of Small and Minority Business for implementation of Minority and Women Business Enterprise participation goals as specified in Chapter 61, Statutes of 1988 (AB 1933). Any need for additional staffing should be documented in a workload analysis and submitted during the normal budget development process.

I am deleting Provision 10 which would require the Department of General Services to conduct a survey of 1989-90 minority and women business enterprise participation in state contracts, related to Chapter 61, Statutes of 1988. Since the regulations implementing Chapter 61 were not effective until May 1990 and the specified information is not available, the requirements of this Provision cannot be met.

I am deleting Provision 11 which would require the Department of General Services to work with various memorial associations to develop and implement a plan to secure the Vietnam Veterans Memorial. This provision interferes with the department's ability to assign security staff based on the highest priority safety needs and could result in increased costs to the state.

I am revising the schedules in this item to conform to the action taken in Item 1760-031-001

Item 1760-011-602—For support of the Department of General Services. I revise this item by deleting Provision 2

I am deleting Provision 2 which would require the Department of General Services to seek legislation that would define the duties and responsibilities of the Office of the State Architect and the Office of Project Development and Management in implementing the state capital outlay program because sufficient statutory authority for the operation of these offices currently exists. It is an infringement on the separation of powers to require the Executive Branch to seek legislation to reduce its discretion to administer state government.

Item 1760-031-001—For support of the Department of General Services. I reduce this item from $180,000 to $179,000 and delete Provision 1.

I am deleting Provision 1 because it makes the expenditure of these funds contin-

gent on the enactment of pending legislation, which in its current form requires substantially more effort than the funds provided in this item can support This would delay the survey work until the legislation is enacted. The cost of this additional effort would be at least $1,000. The work required by AB 12 of the first extraordinary session of 1989 is premature until the initial survey proposed by the Department of General Services, which is fully funded by the amount in this item, can be completed and assessed

Item 1760-101-001—Department of General Services for transfer to the State Emergency Telephone Account. I revise this item by deleting Provision 1

This provision requires the calculation and crediting of interest to the General Fund on funds transferred monthly as necessary for cash flow for the support of the Emergency Telephone Number Program The potential benefit to the General Fund is minimal The application of interest on these loans is inequitable in view of the $44 million transfer from the account to the General Fund which has not been repaid and is not earning interest In effect the account is borrowing funds it has contributed to the General Fund

Item 1760-031-666—For transfer to the General Fund. I reduce the amount of transfer from ($16,995,000) to ($15,300,000) and revise Provision 1.

I am reducing this item by $1,695,000. In order to fund the Legislature's augmentation of five capital outlay projects for the State Capitol and Annex which I am sustaining in Item 1760-301-666, it is necessary to retain adequate resources in the Service Revolving Fund This reduced transfer will accomplish that purpose

I am revising Provision 1 to conform to this action.

"1 Notwithstanding Section 2 00 of this Act, on June 30, 1991, the State Controller shall transfer ~~$16,995,000~~ *$15,300,000* from the Service Revolving Fund to the General Fund. The Director of Finance is hereby authorized to make short-term loans from the General Fund to the Service Revolving Fund to avoid cash flow shortages "

Item 1880-001-001—For support of State Personnel Board I reduce this item from $11,520,000 to $10,714,000 by adding

Unallocated Reduction —$806,000,

and by deleting Provision 2

I am reducing this item by an unallocated $806,000 which after reflecting the impact of Section 3 80, represents a total reduction of 10 per cent This action is necessary to protect vital programs and to provide for a proven prudent reserve for economic uncertainties.

When the impact to Section 3.80 is added to this reduction, the total reduction in this item will result in a ten percent unallocated reduction

I am deleting Provision 2 which specifies that various state agencies are to use funds appropriated by this act to maintain the level of staff employed in the Career Opportunities Development Program. The placement of the provision in this item is inappropriate as the Board is not responsible to control levels of participation in other agencies. Additionally, this provision interferes with the executive branch's ability to manage its programs and unduly restricts the executive branch in prioritizing activities given available resources

Item 1920-001-835—For support of State Teachers' Retirement System. I delete Provision 1

I am deleting Provision 1 which expresses the intent of the Legislature to defer the $53 million General Fund loan repayment for Purchasing Power Protection until the 1991-92 fiscal year. If deferred without legislation, this deferral would terminate the Purchasing Power Protection Program.

Item 1970-491—For capital outlay, Department of Veterans' Affairs I delete this item.

I am deleting the reappropriation for the Veterans' Home of Southern California project The language limits the Department of Veterans' Affairs to a single site, prohibits the use of private land acquisition, development or operation and transfers the responsibility for the project from the Department of Veterans' Affairs to the

Department of General Services These restrictions are inconsistent with the plan of the Department of Veterans' Affairs to build multiple facilities on up to six different sites in Southern California. The use of multiple, smaller sites affords veterans the opportunity to be located closer to family and friends, thereby encouraging fuller participation in family activities Conversely, this also allows families to take, in many cases, a primary care role through the use of alternative day care and respite care service delivery modes In addition, the restrictive language could limit the development and operation of the project in such a manner as to result in higher costs to the state

Item 2200-001-001—For support of Department of Commerce I reduce this item from $15,524,000 to $15,522,000 by reducing.

(c) 30-Tourism from $6,489,000 to $6,488,000, and

(f) 60-Economic Research from $832,000 to $831,000,

and by deleting Provisions 2 and 3

I am deleting Provision 2 which would require the department to allocate $175,000 for the Pac Rim 90 regional conference. This provision would restrict the department's ability to fund high-priority tourism programs and manage its budget resources and is therefore an infringement on the separation of powers between executive and legislative branches of state government I am reducing $1,000 from this item to reflect the savings that will be achieved based on the deletion of this provision.

I am also deleting Provision 3 which would require the department to fund a study of obstacles to the development of small businesses While I am supportive of efforts in this area, the study is not of sufficiently high priority to justify the use of limited state resources The study may be funded through the use of private sector resources I am reducing $1,000 from this item to reflect the savings that will be achieved based on the deletion of this provision

Item 2200-111-001—For local assistance, Department of Commerce I delete this item and Provision 1

I am deleting the $5,000,000 legislative augmentation for the Olympic Training Facility loan Last year, I signed SB 1403 (Chapter 1182, Statutes of 1989) which appropriated the funds for this loan and established the terms and conditions for the loan Therefore, this augmentation is unnecessary

Item 2200-111-147—For local assistance, Department of Commerce. I reduce this item from $6,000,000 to $2,000,000 by reducing

(a) 40-Local Development from $5,000,000 to $2,000,000,

and by deleting.

(b) 50-Small Business ($1,000,000),

and by deleting Provision 1

I am eliminating the $1,000,000 legislative augmentation to expand services provided by the Small Business Development Centers The budget contains $1.7 million for this purpose, and additional federal funding may be available in 1990-91

I am deleting the $3,000,000 legislative augmentation for an inner city development initiative Information has not been presented to justify the purpose of this augmentation Therefore, the need for the funds has not been demonstrated.

I am deleting Provision 1 to conform to this action

Item 2240-001-001—For support of Department of Housing and Community Development I reduce this item from $6,805,000 to $6,455,000 by reducing

(b) 20-Community Affairs Program from $15,160,000 to $14,810,000,

and by deleting Provision 1

I am reducing this item by $350,000 to eliminate the funds redirected by the Legislature to the Farmworker Housing Grant Program. The budget contains $1,000,000 for this program, which is sufficient to meet important program needs.

I am deleting Provision 1 to conform to this action

Item 2240-101-001—For local assistance, Department of Housing and Community Development. I reduce this item from $6,900,000 to $4,400,000 by reducing·

(a) 20-Community Affairs from $70,100,000 to $67,600,000.

I am deleting the $2,500,000 legislative augmentation for the Emergency Shelter Program The department's budget contains $1.7 million for this program, an increase of $550,000 (48 percent) above the amount provided in the 1989-90 budget In addition, $630,000 is included in the Military Department's budget to provide emergency shelter during the winter months. These funds are adequate to meet necessary program needs

I am deleting Provision 1 to conform to this action.

Item 2240-490—Reappropriation, Department of Housing and Community Development I delete this item.

I am deleting this reappropriation of funds remaining in the appropriation made by Chapter 112, Statutes of 1988, for mitigation of lead-based paint in migrant farmworker housing. The funds are reappropriated to the Office of Migrant Services, the Senior Citizens' Shared Housing Program, the Self-Help Housing Program and the Rural Technical Assistance Program

While I am supportive of efforts in these areas, my action is necessary to protect vital programs and to provide for a prudent reserve for economic uncertainties. Because the mitigation of lead-based paint in migrant farmworker housing has been completed, this appropriation should be allowed to revert to the General Fund as provided under current law.

Item 2290-001-217—For support of Department of Insurance. I delete Provisions 4, 5, and 6

I am deleting Provision 4 which requires all contracts executed by the Insurance Commissioner to contain a 30-day cancellation clause This provision is unduly restrictive and infringes on the separation of powers in that it usurps Executive Branch authority to effectively administer state government.

I am deleting Provision 5, which prohibits the department from expending or encumbering more than half of its appropriation within the first half of the fiscal year. This provision is unduly restrictive and infringes on the separation of powers in that it usurps Executive Branch authority to effectively administer state government

I am deleting Provision 6, which would prohibit the department from expending more than one half of the amount of all contracts executed in the 1990-91 fiscal year prior to January 1, 1991. This provision is unduly restrictive and infringes on the separation of powers in that it usurps Executive Branch authority to effectively administer state government.

Item 2640-101-046—For local assistance, Special Transportation Programs. I delete Provision 2.

I am deleting Provision 2 which requires the amount appropriated in this item be reduced by the amount necessary to balance expenditures with revenues available in the Transportation Planning and Development Account. This language was added by the Legislature to address revenue shortfalls anticipated from the inadvertent deletion by Proposition 116 of a section of the Revenue and Taxation Code. Because I have signed SB 640 (Chapter 174, Statutes of 1990) which reinstates the deleted section, this language is no longer necessary

Item 2660-001-042—For support of Department of Transportation I reduce this item from $1,001,281,000 to $1,001,280,000 by reducing:

(b) 20-Highway Transportation from $1,498,853,000 to $1,498,852,000,

and by deleting Provision 9.

I am deleting Provision 9 which would require the use of sealed bids for the lease of state parking lots I am deleting this provision because the language represents a substantive change in law which can be included only in a single-subject bill, not in the Budget Act.

I am reducing this item by $1,000 to conform to the action taken in Item 2660-301-890

Item 2660-101-042—For local assistance, Department of Transportation I revise this item by reducing

(b) 30-Mass Transportation from $81,295,000 to $64,000,000, and

(c) Amount payable from the State Highway Account (Item 2660-125-042) from —$83,795,000 to —$66,500,000,

and by deleting Provision 2.

I am reducing this item because substantial amounts of the state funds previously allocated for the mass transit guideway projects funded from this appropriation remain unspent Funds available from prior years and the funds remaining in this item are adequate to meet the needs of mass transit projects which have been approved for funding during 1990-91. Even with this reduction, the budget will provide new funding of $103.5 million for mass transit capital improvements during 1990-91.

I am deleting Provision 2 to conform to this action

Item 2660-101-046—For local assistance, Department of Transportation. I delete Provision 2.

I am deleting Provision 2 which requires the amount appropriated in this item be reduced by the amount necessary to balance expenditures with revenues available in the Transportation Planning and Development Account. This language was added by the Legislature to address revenue shortfalls anticipated from the inadvertent deletion by Proposition 116 of a section of the Revenue and Taxation Code. Because I have signed SB 640 (Chapter 174, Statutes of 1990) which reinstates the deleted section, this language is no longer necessary.

Item 2660-125-042—For local assistance, Department of Transportation (Proposition 111). I reduce this item from $83,795,000 to $66,500,000.

I am reducing this item by $17,295,000 to conform to the action I have taken in Item 2660-101-042.

Item 2660-301-036—For capital outlay, Department of Transportation. I delete this item and Provision 1.

I am deleting the $300,000 legislative augmentation to construct soundwalls along Interstate 405 between Victory Boulevard and Sherman Way in Los Angeles County, $200,000 for callboxes in Santa Barbara County, and $300,000 for traffic signals on Highway 1 at the California Men's Colony

Funding for transportation projects is allocated from the State Highway Account on a priority basis. The project-specific budgeting provided by these augmentations sets an undesirable precedent Furthermore, this augmentation ignores both the limited funding available in the Special Account for Capital Outlay and the many other high priority capital outlay needs of state programs These projects should compete for funds during the normal budget development process with other worthwhile transportation projects that receive funding from the State Highway Account.

I am deleting Provision 1 to conform to this action

Item 2660-301-890—For capital outlay, Department of Transportation I delete Provision 7.

I am deleting Provision 7, which requires the Department of Transportation to identify state and local bicycle capital outlay projects that are eligible for federal funding without a state or local matching requirement and to apply for the maximum amount of federal funds available for these projects. I am deleting this provision because it is an infringement on the separation of powers in that it usurps Executive Branch authority to effectively manage state government In addition, the language is unnecessary because Section 8.50 of this Act requires all state agencies to apply for the maximum amount of federal funds available under federal law.

I am reducing Item 2660-001-042 by $1,000 to reflect the savings that will be achieved based on the deletion of this provision.

Item 2720-301-044—For capital outlay, Department of the California Highway Patrol I revise this item by deleting Provision 2.

I am deleting Provision 2 of this item because this provision requires the California Highway Patrol to be responsible for the administration of enforcement activities related to prevailing wages for the Susanville lease purchase facility. This language imposes a substantive change to law which is unconstitutional for consideration in the Budget Act. Such changes should be addressed in separate legislation.

Item 3540-301-712—For capital outlay, Department of Forestry and Fire Protection I delete this item and Provision 1.

I am deleting the $5,909,000 legislative augmentation from the proposed Park, Recreation, and Wildlife Enhancement Bond Fund. An appropriate level of bonds to be placed on the November 1990 ballot is yet to be determined, therefore, this appropriation is premature.

I am deleting Provision 1 to conform to this action.

Item 3560-001-001—For support of State Lands Commission. I revise this item from $16,185,000 to $15,052,000 by adding:

Unallocated Reduction —$1,133,000.

I am reducing this item by an unallocated $1,133,000 when the impact of Section 3.80 is added to this reduction, the total reduction in this item will result in a ten per cent unallocated reduction. This action is necessary to protect vital programs and provide for a proven prudent reserve for economic uncertainties.

Item 3580-001-001—For support of Seismic Safety Commission. I reduce this item from $1,095,000 to $982,000.

I am deleting the $21,000 legislative augmentation for the purchase of additional computer system equipment. This General Fund augmentation is not of sufficiently high priority to justify the use of limited state resources Furthermore, this augmentation is inconsistent with the need to protect vital programs, hold spending growth to income growth and provide for a proven prudent reserve for economic uncertainties

I am deleting the $92,000 legislative augmentation for additional clerical staff No workload data has been presented to justify the ongoing need for these positions.

I am retaining the $100,000 legislative augmentation in Item 3580-001-257 for support of the Seismic Safety Commission which the Legislature transferred from funds reappropriated in Item 3580-490 for the study of the Loma Prieta earthquake. A portion of the reappropriated funds could be used to address any temporary clerical staff needs associated with the study of the Loma Prieta earthquake.

Item 3720-001-001—For support of California Coastal Commission. I reduce this item from $6,550,000 to $6,091,000 by adding:

Unallocated Reduction —$459,000

I am reducing this item by an unallocated $459,000. When the impact of Section 3.80 is added to this reduction, the total reduction in this item will result in a ten per cent unallocated reduction. This action is necessary to protect vital programs, hold spending growth to income growth and provide for a proven prudent reserve for economic uncertainties.

Item 3790-001-001—For support of Department of Parks and Recreation I revise this item by reducing:

(a) 100000-Personal Services from $117,688,000 to $113,980,000,

(b) 300000-Operating Expenses and Equipment from $49,446,000 to $47,857,000,

(g) Amount payable from the State Parks and Recreation Fund (Item 3790-001-392) from —$68,966,000 to —$63,669,000

I am revising this item to conform to the actions taken in Items 3790-001-392

I am deleting Provision 1 which restricts the right of the city of Santa Monica to evict the current concessionaire from 415 Pacific Coast Highway because it contravenes the city's authority as a state agent

Item 3790-001-392—For support of Department of Parks and Recreation. I reduce this item from $68,966,000 to $63,669,000.

I am reducing the augmentation of $16,000,000 from the State Parks and Recreation fund to $10,703,000. The Department will be unable to implement an appropriate fee increase to fund the higher augmentation before the major revenue producing months have passed I anticipate that a more attainable revenue increase will result from an average fee increase of 40 percent implemented early in the fall

Item 3790-101-721—For local assistance, Department of Parks and Recreation I delete this item

I am deleting the $289,000 legislative augmentation for Boothbay and Catamaran Parks rehabilitation from the California Parklands Act of 1980. This appropriation would reduce the fund balance to zero. In light of authorized construction projects pending from this fund source, a prudent reserve needs to be maintained for augmentation to cover potential cost increases to those projects.

Item 3790-101-733—For local assistance, Department of Parks and Recreation I delete this item.

I am deleting the $25,000 legislative augmentation for the Hayward Regional Shoreline Development Project from the State Beach, Parks, Recreational, and Historical Facilities Fund of 1974. This project should be submitted for consideration during the normal budget development process so it may be reviewed and evaluated in the context of competing needs for available fund sources As there are authorized construction projects pending from this fund source which may require augmentation, it is imprudent to reduce the fund balance below the current level

Item 3790-101-742—For local assistance, Department of Parks and Recreation. I delete this item.

I am deleting the $485,000 legislative augmentation for four local assistance grants from the State, Urban, and Coastal Park Fund These projects should be submitted for consideration during the normal budget development process so they can be reviewed and evaluated in the context of competing needs for available fund sources. As there are authorized construction projects pending from this fund source which may require augmentation, it is imprudent to reduce the fund balance below the current level

Item 3810-001-001—For support of Santa Monica Mountains Conservancy. I reduce this item from $216,000 to $201,000 by adding:

Unallocated reduction —$15,000

I am reducing this item by an unallocated $15,000. When the impact of Section 3.80 is added to this reduction the total reduction in this item will result in a ten per cent unallocated reduction. This action is necessary to protect vital programs, hold spending growth to income growth and provide for a proven prudent reserve for economic uncertainties.

Item 3860-101-036—For local assistance, Department of Water Resources. I delete this item and Provisions 1 and 2.

I am deleting the $45,900,000 legislative augmentation for local flood control subvention payments. The Budget proposed $13,000,000 in base funding from the General Fund and an additional $32,900,000 from the Special Account for Capital Outlay (SAFCO) for this purpose. However, the Legislature shifted funding to general obligation bonds, assuming enactment of legislation which would place a measure on the November 1990 ballot This action allowed the Legislature to fund other projects from SAFCO; subsequently when the Legislature shifted $45,900,000 in funding from general obligation bonds back to SAFCO, it resulted in an over appropriation of SAFCO. Therefore, I am vetoing this augmentation to prevent over expending funds from this account

I am deleting Provisions 1 and 2 to conform with this action.

Item 4120-101-001—For local assistance, Emergency Medical Services Authority. I reduce this item from $3,229,000 to $3,057,000, and delete Provision 2.

I am deleting the $172,000 legislative augmentation for this program because the increase is not warranted. The state subvention for local emergency medical service agencies I proposed for 1990-91 represents a 15 percent increase over the 1989-90 level of support and should be sufficient to provide essential services.

I am deleting Provision 2 to conform to this action.

Item 4140-111-001—For local assistance, Office of Statewide Health Planning and Development I delete this item and Provisions 1, 2 and 3

I am deleting the $2,100,000 legislative augmentation to expand the Family Physician Training Program This action is necessary to keep state spending growth in line with income growth.

I am deleting Provisions 1, 2 and 3 to conform to this action.

Item 4170-001-001—For support of Department of Aging. I reduce this item from $5,051,000 to $4,872,000 by reducing

(d) 40-Special Projects from $4,799,000 to $4,620,000.

I am deleting the $179,000 legislative augmentation and 2 4 personnel years for the Linkages program.

This action conforms to action that I have taken in Item 4170-101-001

Item 4170-101-001—For local assistance, Department of Aging I reduce this item from $34,139,000 to $31,068,000 by reducing:

(c) 30-Supportive Services and Centers (for match) from $29,118,400 to $29,004,000,

(d) 40-Special Projects from $31,728,600 to $28,772,000,

and by deleting Provisions 2 and 4

I am deleting the $1,921,000 legislative augmentation to restore funding provided for the Linkages program. My Budget proposed reducing this program because the spending mandates and entitlement formulas were estimated to expand well beyond the rate of increase of our revenues The basis for the original reduction is still valid Therefore, it is necessary to recognize that these restrictions are forcing California's budget to increase substantially without any regard to the availability of revenues Consequently, I am vetoing this augmentation to ensure fiscal responsibility for the future.

This action conforms to the action I have taken in Item 4170-001-001

I am deleting the $114,400 legislative augmentation to expand services provided by the long-term care Ombudsman program The Ombudsman program is currently meeting the statutory requirement related to investigations of elder abuse. While I appreciate the efforts of this program and the fact that additional resources would be used to expand the number of volunteers, an increase is not supportable at this time

I am deleting the $35,600 legislative augmentation to provide funding for a Social Day Care program. While I support the efforts to prevent the premature institutionalization of California's frail elderly and functionally impaired adults, I cannot approve discretionary General Fund expenditures at this time.

I am deleting Provision 2 to conform to this action

I am deleting the $1,000,000 legislative augmentation to expand the Alzheimer Day Care Resource Centers (ADCRC) During my Administration the ADCRC program has grown from one that was nonexistent in 1983-84 to the current level of $2,400,000 (General Fund) for support of the existing 36 ADCRC's While I recognize the merits of this program, any additional augmentation would restrict the state's ability to fund other vital programs and to provide for a prudent reserve for economic uncertainties. Therefore, an increase is not supportable at this time

I am deleting Provision 4 to conform to this action.

Item 4170-111-939—For local assistance, Department of Aging I delete this item and Provisions 1 and 2.

I am deleting the $554,000 legislative augmentation to backfill the anticipated federal fund reduction in the Congregate Nutrition program I have approved a loan from the Nutrition Reserve Fund (NRF) to mitigate the nutrition funding shortfall in 1989-90, thereby allowing sufficient time for the local providers to plan for the budget year reductions The effect of this proposal would either represent a future obligation for one-time funds or would delay the federal reduction in the Congregate Nutrition program.

The backfilling of federal reductions in state programs provides an inappropriate incentive for the federal government to increase their reductions to California

I am deleting Provision 1 to conform to this action.

I am deleting the $150,000 legislative augmentation for the purchase of a new commissary kitchen to fulfill the food preparation needs of Jewish Family Services This request is inconsistent with the intent of the NRF which is to provide loans to local Area Agencies on Aging experiencing cash flow problems and would set an inappropriate precedent.

I am deleting Provision 2 to conform to this action.

Item 4260-001-001—For support of Department of Health Services. I reduce this item from $141,585,000 to $141,239,000 by reducing:

(a) 100000-Personal Services from $182,458,000 to $182,167,000,

(b) 300000-Operating Expenses and Equipment from $109,213,000 to $108,831,000, and

(d) Reimbursements (Toxics) from −$3,803,000 to −$3,476,000,

and by deleting Provisions 7, 8, 11, 16, 17, 18 and 21.

I am deleting the $44,000 legislative augmentation to extend the Licensing and Certification positions for Congregate Living Health Facilities regulation workload from six months to one year. My January budget proposed extending the two limited-term positions; there is no workload justification for the additional six months' extension of the positions proposed by the Legislature. This legislative augmentation is therefore unnecessary.

I am deleting Provision 7 which would limit the availability of funding and staff positions for the Medi-Cal Drug Discount Program because it would unduly restrict the Executive Branch's ability to manage that program. The budget includes funds and positions to establish a program to negotiate the best price for drugs which will be available to Medi-Cal beneficiaries One contract guaranteeing significant rebates has been concluded, and several new contract negotiations are underway. Legislation to strengthen the Department's ability to manage the Medi-Cal Drug Formulary and achieve better prices has been passed in conjunction with this Budget Act but contains elements that some might view as differing from those enumerated in Provision 7. Therefore, flexibility must be maintained for the establishment of positions related to the Medi-Cal Drug Discount Program.

I am reducing the $748,000 legislative augmentation of reimbursements for Toxics Substances Control Division workload by $327,000 and 5.4 personnel years to reflect the appropriate funding level for ongoing data processing workload. A total of $3,476,000 will be provided for this workload as a result of my action

I am deleting Provision 8 to conform to this action.

I am deleting the $300,000 legislative augmentation to expand the Childhood Lead Poisoning Program My January budget increased the funding for this program by $163,000 to expand this program in 1990-91 and provide a total of $438,000 which is an adequate funding level This action is necessary to protect vital programs, hold spending growth to income growth and provide for a proven prudent reserve for economic uncertainties.

I am deleting Provision 11 to conform with this action.

I am deleting Provision 16 which would have required that the $200,000 legislative reduction, which was taken inappropriately as a punitive action, be reflected in the Department of Health Services' Administrative and Executive Divisions' Salaries and Wages. This language is inconsistent with the separation of powers as it denies the Executive Branch the flexibility to administer programs and allocate the reduction for maximal public benefit.

I am deleting Provision 17 which would have required that specific organizations be represented in the Malathion Public Health Effects Advisory Committee and that the malathion studies include specific factors. This language dictates the composition of an administratively established advisory committee and infringes on the Executive Branch's authority to administer programs The organization and activities of the committee should be determined by the Director in a manner which best meets the needs and the overall goals and objectives of the department Nevertheless, I am directing the department to consider the spectrum of views in the scientific community as it evaluates the public health safety of malathion and to make copies of its findings available to the Legislature

I am reducing this item by $1,000 and deleting Provision 18 to eliminate unnecessary costs. Provision 18 would have required the department to conduct specified studies regarding pesticides near the City of Coachella by a specified date The Department of Health Services indicates it has not been advised by local officials of the need for pesticide studies to determine the prevalence of environmental contamination or pesticide related illnesses in the City of Coachella. Although no augmen-

tation was provided to meet the costs of these studies, there would be a cost of at least $1,000 incurred by the Department of Health Services to comply with them. I am reducing $1,000 from this item, which represents the savings that will be achieved based on vetoing the language contained in this provision.

I am reducing this item by $1,000 and deleting Provision 21 to eliminate unnecessary costs. Provision 21 would establish an expenditure plan of $800,000 for a new specified study in addition to the continuation of current Cancer Registry data analysis and study projects. Although no augmentation was provided to meet the cost of this study, there would be a cost of at least $1,000 incurred by the Department of Health Services to comply. I am reducing $1,000 from this item, which represents the savings that will be achieved based on vetoing the language contained in this provision.

Item 4260-002-001—For support of Department of Health Services I revise the language in this item and delete Provision 2.

The Legislature has established a new budget item to fund public health programs in the Bay area. I am revising this item because the proposed description of the item is inconsistent with two constitutional provisions First, the language violates the separation of powers provision concerning the Executive Branch's authority. Second, inasmuch as existing law does not define or reference the location of Public Health programs, the language of this item represents a substantive change of law which can only be included in a different single subject bill, rather than the Budget Act

I am revising the language in this item to conform with this action.

"Item 4260-002-001—For support of the Department of Health Services ~~programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California~~ ."

I am deleting Provision 2 because it would require that fees generated by large water systems be reimbursed to this item This language is technically not correct. These fees, which are authorized in SB 1806, should appropriately be deposited into the General Fund to offset the cost of this program consistent with the intent of SB 1806.

Item 4260-002-014—For support of Department of Health Services I revise the language in this item to conform with my action in Item 4260-002-001

"4260-002-014—For support of Department of Health Services ~~programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California~~ , for payment to Item 4260-002-001, payable from the Hazardous Waste Control Account, General Fund "

Item 4260-002-044—For support of Department of Health Services I revise the language in this item to conform with my action in Item 4260-002-001

"4260-002-044—For support of Department of Health Services ~~programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California~~ , for payment to Item 4260-002-001, payable from the Motor Vehicle Account, State Transportation Fund "

Item 4260-002-177—For support of Department of Health Services I revise the language in this item to conform with my action in Item 4260-002-001

"4260-002-177—For support of Department of Health Services ~~programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California~~ , for payment to Item 4260-002-001, payable from the Food Safety Fund."

Item 4260-002-179—For support of Department of Health Services. I revise the language in this item to conform with my action in Item 4260-002-001.

"4260-002-179—For support of Department of Health Services ~~programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California~~ , for payment to Item 4260-002-001, payable from the Environmental Laboratory Improvement Fund."

Item 4260-002-203—For support of Department of Health Services. I revise the language in this item to conform with my action in Item 4260-002-001.

"4260-002-203—For support of Department of Health Services ~~programs, other~~

~~than administrative overhead and data processing, that are located within 40 miles of Berkeley, California~~, for payment to Item 4260-002-001, payable from the Genetic Disease Testing Fund."

Item 4260-002-227—For support of Department of Health Services. I am revising this item by changing the appropriation from $340,000 to $43,000 to correct an error in the bill and to conform to the legislative action in Item 4260-002-001 which correctly scheduled $43,000 as an amount payable from this item.

I am also revising the language in this item to conform with my action in Item 4260-002-001 as follows:

"4260-002-227—For support of Department of Health Services ~~programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California~~, for payment to Item 4260-002-001, payable from the Low Level Radioactive Waste Disposal Fund."

Item 4260-002-234—For support of Department of Health Services. I revise the language in this item to conform with my action in Item 4260-002-001.

"4260-002-234—For support of Department of Health Services ~~programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California~~, for payment to Item 4260-002-001, payable from the Research Account, Cigarette and Tobacco Products Surtax Fund "

Item 4260-002-455—For support of Department of Health Services I revise the language in this item to conform with my action in Item 4260-002-001

"4260-002-455—For support of Department of Health Services ~~programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California~~, for payment to Item 4260-002-001, payable from the Hazardous Substance Account, General Fund "

Item 4260-002-890—For support of Department of Health Services I revise the language in this item to conform with my action in Item 4260-002-001

"4260-002-890—For support of Department of Health Services ~~programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California~~, for payment to Item 4260-002-001, payable from the Federal Trust Fund."

Item 4260-005-890—For support of Department of Health Services I delete Provision 3

I am deleting Provision 3 which would restrict the allocation of additional discretionary federal funds to carry out AIDS-related activities. To the extent that such funds become available in 1990-91, this language is unduly restrictive and would interfere with the Administration's ability to manage its programs and establish priorities for limited funding resources.

Item 4260-011-001—For support of Department of Health Services (Toxic Substances Control Program), for transfer by the State Controller to the Hazardous Substance Account, General Fund. I delete this item

I am deleting this $5,000,000 item because allocation of General Fund monies to the Toxic Substances Control Program in 1990-91 is incompatible with the need for California to limit expenditures to the available revenue increase and maintain a prudent reserve. While this program should be able to compete for General Fund revenues, the need to maintain higher priority programs precludes an appropriation from this source in fiscal year 1990-91.

Item 4260-011-014—For support of Department of Health Services (Toxic Substances Control Program). I revise this item by reducing:

(a) 12 10-Site Mitigation from $59,628,000 to $54,628,000, and

(k) Amount payable from Hazardous Substance Account (Item 4260-015-455) from −$10,375,000 to −$5,375,000,

and by deleting Provisions 4 and 5.

I am reducing the amount available in this item for site mitigation activities to conform to the deletion of the General Fund transfer of Item 4260-011-001

I am deleting Provision 4 which would require the Department of Health Services to recover site mitigation costs in excess of fees from responsible parties collected

under Sections 25347.6 and 25347.7 of the Health and Safety Code. This requirement would be in addition to the cost recovery requirements in Chapters 269 and 1032, Statutes of 1989, which were the result of negotiations among all interested parties. As such, this provision would create substantiative law which can only be included in a single subject bill, not the Budget Act.

I am deleting Provision 5 which would limit the amount of time that employees of the Toxic Substances Control Program spend in training. This provision interferes with the Administration's ability to manage the Toxics program on a day-to-day basis and is therefore inappropriate.

Item 4260-015-455—For support of Department of Health Services (Toxic Substances Control Program). I reduce this item from $10,375,000 to $5,375,000 and revise Provision 1.

I am reducing this item by $5,000,000 to conform to the action I have taken to delete the transfer in Item 4260-011-001 of General Fund monies to the Hazardous Substance Account.

I am revising Provision 1 to conform to this action.

"1. The funds appropriated in this item are for the following:

(a) 12.10.030 — Direct Site Cleanup:		
(1) 12.10.030.005-Purity Oil	110,000	
(2) 12.10.030.010-Myers Drum, Emeryville	587,000	
(3) 12.10.030.015-Lubrication Company of America	787,000	
(4) 12.10.030.020-Western States Refining	126,000	
(5) 12.10.030.025-McColl	150,000	
(6) 12.10.030.030-Enforcement/PRP Searches and Lab Sampling	750,000	
(7) 12.10.030.035-Pinedale Area Groundwater Phase I	465,000	
(8) 12.10.030.040-Myers Drum, Oakland	587,000	
(9) 12.10.030.045-Southland Oil	243,000	
(10) 12.10.030.050-North San Bernardino, Phase I	383,000	
(11) 12.10.030.055-Unforseen RAs/Site Stabilizations	794,000	
(12) 12.10.030.060-Chico Area Groundwater, Phase I	~~587,000~~	393,000
~~(13) 12.10.030.065-Precision Media~~	~~365,000~~	
~~(14) 12.10.030.070-Caltrans Project 3, Site 15~~	~~544,000~~	
~~(15) 12.10.030.075-North San Bernardino, Phase II~~	~~967,000~~	
~~(16) 12.10.030.080-Village Market, Phase I~~	~~265,000~~	
~~(17) 12.10.030.085-Factor Avenue~~ Plume	~~165,000~~	
~~(19) 12.10.030.095-Rosamond, Phase I~~	~~265,000~~	
~~(23) 12.10.030.115-Pacific States Steel~~	~~365,000~~	
~~(24) 12.10.030.120-San Fernando GWB~~	~~315,000~~	
~~(25) 12.10.030.090-Dunes Subdivision~~	~~50,000~~	
~~(26) 12.10.030.110-Tri-Air~~	~~215,000~~	
~~(27) 12.10.030.115-Bay Area Drum~~	~~123,000~~	

~~(28) 12.10.030-120 Caltrans No. 16. —167,000~~
~~(29) 12.10.030-125 San Gabriel Groundwater Basin..... ..... 1,000,000~~ "

Item 4260-101-001—For local assistance, Department of Health Services, Medical Assistance Program. I reduce this item from $3,816,042,900 to $3,802,342,900 by reducing:

(a) 50.11-Benefits (Medical Care and Services) from $7,719,219,800 to $7,691,819,800, and

(e) Amount payable from the Federal Trust Fund (Item 4260-101-890) from − $4,120,194,900 to −$4,106,494,900,

and by deleting Provisions 15, 17, 18, and 19.

I am reducing this item by $1,000,000 and taking a corresponding action in Item 4260-101-890 by reducing $1,000,000 in federal funds to reflect a legislative augmentation related to access to perinatal services for Medi-Cal beneficiaries. Providing for adequate maternity care has been one of my highest funding priorities, and since 1986-87 Medi-Cal rates for maternity care providers have increased by over 60 percent. In addition, the Department of Health Services has implemented several new programs to improve maternity care such as: Providing delivery services to undocumented workers; providing prenatal and postpartum services to undocumented women using only state funds; implementing the federal option to provide Medi-Cal benefits to pregnant women and their children if their income does not exceed 185 percent of the federal poverty level; and extending Medi-Cal eligibility to pregnant women and their children whose income is between 185 percent and 200 percent of the federal poverty level using only state funds. Although providing adequate access to maternity care continues to be one of my highest priorities, I am opposed to this augmentation due to the need to provide for a proven prudent General Fund reserve during the current year.

I am deleting Provision 15 to conform to this action

I am reducing this item by $9,000,000 and taking a corresponding action in Item 4260-101-890 by reducing $9,000,000 in federal funds to reflect deletion of the legislative augmentation to provide discretionary increases to disproportionate Medi-Cal share hospitals for outpatient services This item already contains $5,000,000 plus a corresponding $5,000,000 in federal funds for outpatient rate increases for disproportionate Medi-Cal share hospitals.

I am deleting Provision 17 to conform to this action

I am reducing this item by $200,000 and taking a corresponding action in Item 4260-101-890 by reducing $200,000 in federal funds to reflect deletion of the legislative augmentation to provide a discretionary 4 percent rate increase for home health care services Home health care providers have received sizable increases during the last five years Ten percent in May, 1988 and a 28 percent rate increase in August, 1985

I am deleting Provision 18 to conform to this action

I am reducing this item by $1,000,000 and taking a corresponding action in Item 4260-101-890 by reducing $1,000,000 in federal funds to reflect a legislative augmentation to provide a 6.4 percent discretionary rate increase for ambulance transportation providers General Fund resources are not adequate to permit a discretionary rate increase for these Medi-Cal providers

I am deleting Provision 19 to conform to this action

I am reducing this item by $2,500,000 and taking a corresponding action in Item 4260-101-890 by reducing $2,500,000 in federal funds to reflect deletion of the legislative augmentation to provide a discretionary rate increase in dental rates The Medi-Cal program has made several systems enhancements for its dental providers recently, including the acceleration of claims payments, addition of four new toll-free lines, and improved access to patient information necessary for billing Furthermore, dental providers received a five percent increase for the 1989-90 fiscal year. In addition, the matter of dental access and rates is the subject of pending litigation that should not be complicated by this augmentation.

Item 4260-101-890—For local assistance, Department of Health Services. I reduce this item from $4,120,194,900 to $4,106,494,900.

I am deleting the $1,000,000 legislative augmentation related to improved access to perinatal services for Medi-Cal beneficiaries to correspond to my action on this issue in Item 4260-101-001.

I am deleting the $9,000,000 legislative augmentation to provide discretionary rate increases for disproportionate Medi-Cal share hospital outpatient services to correspond to my action on this issue in Item 4260-101-001.

I am deleting the $200,000 legislative augmentation to provide a discretionary rate increase for home health care services to correspond to my action on this issue in Item 4260-101-001.

I am deleting the $1,000,000 legislative augmentation for the ambulance transportation provider rate increase to correspond to my action on this issue in Item 4260-101-001.

I am deleting the $2,500,000 legislative augmentation to provide a discretionary increase in dental rates to correspond to my action on this issue in Item 4260-101-001.

Item 4260-111-001—For local assistance, Department of Health Services. I reduce this item from $1,014,475,000 to $975,777,000 by reducing:

(b) 15-AIDS from $55,980,000 to $46,175,000,

(c) 20-Family Health Services from $164,454,000 to $157,454,000,

(d) 40-Rural and Community Health from $786,528,000 to $764,635,000,

and by deleting Provisions 1(b), 1(c), 1(d), 1(e), 1(g), 1(h), 3(g), and 3(h).

The 1990-91 Budget provides $73,273,000 in General Fund for AIDS programs statewide. This represents an increase of over 2,155 percent since the 1983-84 Budget. When all funding sources are considered, the 1990-91 Budget provides $126,372,000 for AIDS programs. This represents over a 3,700 percent increase since the 1983-84 AIDS Budget.

I am deleting the $150,000 legislative augmentation, of which $100,000 is for an AIDS Adult Day Health Care program and $50,000 is for evaluation of the three model AIDS Adult Day Health Care programs funded in the 1989 Budget Act. This budget provides $6 7 million for Home and Community Based Care Pilot Projects Should the department determine that additional funding is available for these projects and that they are of significant priority, it could administratively redirect funds from within existing AIDS resources An augmentation to this program, in addition to the funds currently budgeted, would restrict the state's ability to fund other vital programs, hold spending growth to income growth and to provide for a proven prudent reserve for economic uncertainties.

I am deleting Provision 1(b) to conform to this action.

I am deleting Provision 1(c) which would require the Department of Health Services to redirect $825,000 from funds allocated to the Alternative Test Site (ATS) program to promote testing and early intervention services. This language mandates the redirection of funds from a critical program of anonymous testing based on the assumption that there may be excess funds Predicting the number of tests in the ATS program has always been difficult due to the evolving recommendations for testing and treatment. This language is an infringement on the separation of powers in that it usurps Executive Branch authority to effectively administer state government. Should excess funds in the ATS program become available, a redirection of funds to other AIDS programs, including early intervention services, could be accomplished administratively with concurrence by the Legislature.

I am deleting the $455,000 legislative augmentation for health insurance premium subsidies for persons with AIDS I have demonstrated my support for the program to provide health insurance premium subsidies for persons with AIDS by signing AB 532 (Chapter 1055, Statutes of 1989) into law. However, the legislation stipulated that the subsidies were to be provided to program participants only to the extent existing funding was utilized and a cost savings resulted to the Pilot Care Projects. Department staff are currently developing guidelines for such implementation. Therefore, this augmentation is inappropriate.

I am deleting Provision 1(d) to conform to this action.

I am deleting the legislative augmentation of $2,500,000 for AIDS Pilot Care Program projects. The 1990-91 Budget provides $17,388,000 for these types of projects.

While I recognize the merits of these projects, any additional augmentation would restrict the state's ability to fund other vital programs and to provide for a proven prudent reserve for economic uncertainties. Therefore, an increase is not supportable at this time.

I am deleting Provision 1(e) to conform to this action.

I am deleting Provision 1(g) which would allow each county to use up to 5 percent of its AIDS drug subsidy funding for administrative support. The use of these funds for administrative costs would result in a reduction of direct services which should be the highest priority for limited state resources.

I am deleting Provision 1(h) which would require the Office of AIDS to fully fund the Tagalog AIDS Information and Referral Hotline from any additional AIDS funding which may become available. The Department of Health Services has committed, based upon statewide priorities and limited resources, to allocate $35,000 to support the Hotline in 1990-91 Should additional funding for AIDS programs become available, the department should be able to evaluate funding needs without predetermined priorities.

I am deleting the $6,700,000 legislative augmentation for AIDS Early Intervention and Prevention programs. While I recognize the merits of these projects, any additional augmentation would restrict the state's ability to fund other vital programs, hold spending growth to income growth and to provide for a proven prudent reserve for economic uncertainties. Therefore, an increase is not supportable at this time

I am deleting the $4,000,000 legislative augmentation for additional family planning services; however, I am sustaining the $24,345,000 augmentation which restores the funding for this program to its 1988-89 level. Due to the need to provide a prudent reserve for economic uncertainties it would be inappropriate to allocate additional limited state resources for this purpose. Therefore, I am deleting the $4,000,000 augmentation for this program.

I am reducing this item by $3,000,000 to reflect an unallocated reduction made to Public Health programs as part of the legislative agreement on this budget. The Department of Health Services proposes to take this funding reduction from various Maternal and Child Health programs To the extent that carryover federal funds will be available as appropriated in Item 4260-111-890, those funds may be used for these programs.

Consistent with the policy to suspend the statutory cost-of-living adjustments (COLAs) in Health and Welfare programs, I am deleting the $21,406,000 legislative augmentation in this item to restore the 4 54 percent statutory COLA in the AB 8 program. This action is consistent with the action that the Legislature has taken to suspend the COLAs as authorized by Senate Bill 2097.

I am reducing this item by $472,000 to reflect the deletion of the legislative augmentation of a population adjustment for the AB 8 program. The January budget contained $1,431,000 for a population adjustment for this program and reflected a reserve of $643,000 in funding for this program Based upon the current population and consideration of that reserve, there will be adequate resources for the program I am directing the department to utilize the reserve monies to fund the $472,000 projected for the population adjustment

I am reducing this item by $15,000 to reflect deletion of the legislative augmentation to provide funding to support laboratory services for a migrant health services program. The laboratory services for these types of federally funded programs have historically been funded by local governments Given the present expenditure environment, it is unwise for the state to backfill for discretionary federal and local government program shortfalls

I am deleting Provision 3(g) to conform to this action

I am deleting Provision 3(h) which specifies the calculation methodology for the allocation of the $150 million reduction in the Medically Indigent Services Program because it appears that, due to the short time frame in which the language was developed, not all of the ramifications of the allocation methodology may have been deliberated. Therefore, I am directing the Department of Health Services to immediately commence the cooperative determination of the most appropriate allocation meth-

odology and to effectively pursue and implement the mechanisms necessary to achieve the reduction

Item 4260-111-890—For local assistance, Department of Health Services. I delete Provision 2(c).

I am deleting Provision 2(c) which would specify the priority order and amounts for expenditure of federal Maternal and Child Health (MCH) funds that may be available in 1990-91 from funds carried over from prior years This language, while generally reflective of departmental priorities for the use of these funds, could conflict with the department's ability to prioritize its funding needs due to the $3 million funding reduction to MCH programs in Item 4260-111-001 as part of the Legislative agreement.

Item 4260-112-036—For local assistance, Department of Health Services I delete this item.

I am deleting the $200,000 legislative augmentation for the Long Beach Stroke Center. While the project may be meritorious, it should be considered for funding in the context of statewide priorities and available funding. The Special Account for Capital Outlay should be made available for higher statewide priorities for which alternative funding sources are limited or are not available.

Item 4260-121-001—For local assistance, Department of Health Services I reduce this item from $6,564,000 to $3,564,000 and delete Provisions 1 and 2.

I am deleting the $1,720,000 legislative augmentation to expand the Alzheimer's Program Treatment Centers in rural and urban areas. I am also deleting the $1,280,000 legislative augmentation to fund new and existing treatment centers and related department administrative costs I am deleting the augmentations because they were made by the Legislature despite limited state resources and they are inconsistent with the need to protect current vital programs, hold spending growth to income growth and provide for a proven prudent reserve for economic uncertainties.

I am deleting Provisions 1 and 2 to conform to this action

Item 4300-001-496—For support of Department of Developmental Services. I reduce this item from $80,000 to $60,000

I am deleting the $20,000 legislative augmentation to develop contracts to establish and support self-advocacy organizations and provide conferences for primary consumers. Both the State Council on Developmental Disabilities and the Area Boards on Developmental Disabilities have been established to represent the needs of developmentally disabled consumers. The 1990-91 Governor's Budget proposed, and the Legislature approved, a funding increase for the Area Boards to enable them to facilitate the participation of an increased number of consumers as board members. In view of these facts, this augmentation represents an unnecessary expenditure of limited state funds.

Item 4300-003-001—For support of Developmental Services. I reduce this item from $19,186,911 to $16,686,911 by reducing.

(a) 20-Developmental Centers Program from $538,411,911 to $535,911,911.

I am deleting the $2,500,000 legislative augmentation which was intended to fund health benefits for contract janitorial staff at the Developmental Centers Contract janitorial staff have been employed at the Developmental Centers since January 1987 An initial three-year contract for these services was followed by a second 30-month contract which commenced in January 1990 During neither the initial contract nor the negotiations over the second did the contractor identify a need for additional funding of health benefits Rather, the contract was freely entered into by all parties with the understanding that the provision of benefits was a responsibility of the contractor Consequently, the state has no obligation to augment this contract for any purpose. Furthermore, the legal authority of the state to do so is questionable since other firms which bid or might have bid on the contract could raise a legal challenge to what would be an irregular and possibly unfair contracting procedure.

Item 4300-101-001—For local assistance, Department of Developmental Services. I reduce this item from $550,912,075 to $533,349,075 by reducing

(a) 10.10.010-Operations from $156,682,075 to $154,195,075, and

(b) 10.10.020-Purchase of Services from $424,850,000 to $409,774,000,

and by revising Provision 9.

I am reducing this Item by $17,563,000 to reflect the following actions:

I am reducing $1,600,000 which would have provided funds to continue to pay residential providers the artificial "red circle" rates during implementation of the Alternative Residential Model (ARM). While I am supportive of the ARM program, in light of the current budget deficit, the rates paid to residential providers must be held at the levels identified as correct in the department's rate studies.

I am reducing $5,354,000 which would have provided ARM rate increases equal to the rise in the projected 1990-91 Consumer Price Index. This augmentation would constitute a cost-of-living adjustment for one specific group of providers. I am unable to provide discretionary cost-of-living adjustments because doing so would create inequities among other important programs that are not being provided such adjustments due to budgetary constraints.

I am reducing $100,000 which would have provided high fair market value (HFMV) ARM rates in Santa Barbara county. In the department's rate study conducted by Price Waterhouse, 12 counties were identified as HFMV counties. Santa Barbara was not among those counties. Therefore, this augmentation is not justified. Furthermore, approval of this augmentation could encourage other counties not designated HFMV to seek special consideration to receive HFMV rates.

I am reducing $8,022,000 which would have provided ARM rate increases equal to the increase in the 1989-90 Consumer Price Index. I am unable to provide discretionary cost-of-living adjustments because doing so would create inequities among other important programs that are not being provided such adjustments due to budgetary constraints.

I am reducing $2,487,000 which would have provided a discretionary COLA for Regional Center employees. I am unable to provide discretionary cost-of-living adjustments because doing so would create inequities among other high priority programs that are not being provided such adjustments due to budgetary constraints

I am revising Provision 9 because it would create a contingent appropriation by authorizing the redirection of General Fund savings to the Program Development Fund and to Regional Resource Development Projects. While these proposed uses may have merit, I cannot approve discretionary General Fund expenditures at this time.

"9. Allocations for the operations costs associated with Targeted Case Management shall be made on a quarterly basis. At least 30 days prior to the second, third, and fourth quarters of the 1990-91 fiscal year, the department shall determine whether or not federal reimbursement for targeted case management remains reasonably likely to occur, and shall notify the Director of Finance of its determination. At the same time, if the department determines that reimbursement is no longer a reasonable possibility, it shall advise the regional centers to terminate TCM operations activities within 30 days and shall make no further quarterly allocations. No sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee, the Director of Finance shall unallot the TCM operations funds for those quarterly allocations which have been determined to be unnecessary. ~~If this occurs, one-half of the funds unalloted shall be allocated to the Program Development Fund and one-half shall be used for the Regional Resource Development Projects.~~ "

Item 4300-101-172—For local assistance, Developmental Services. I delete Provision 2.

I am deleting Provision 2, which would require the department to report to the Legislature by October 1, 1990, if it intends to allocate more than 25 percent of the portion of the Program Development Fund which is derived from parental fees and contributions to any appropriation or combination of appropriations not exclusively dedicated to the start-up of new community programs. This language is unworkable because the specified reporting deadline occurs prior to the department's selection

of projects to be funded with Program Development Fund (PDF) monies. As such, the language would infringe on the constitutional authority of the Executive Branch to administer state programs efficiently and effectively. I have no objection to providing the Legislature information on PDF allocations, however, the Legislature may request information of this type without Budget Act language.

Item 4440-101-001—For local assistance, Department of Mental Health. I reduce this item from $518,352,000 to $447,276,000 by reducing:

(b) 10.25-Community Services—other treatment from $550,710,000 to $548,081,000,

(c) 10.40-Adult System of Care Pilots from $11,747,000 to $8,000,000,

and by deleting:

(d) 10.50-Mental Health services for Wards and Dependents ($3,700,000),

and by adding:

Unallocated Reduction —$61,000,000,

and by deleting Provision 12

I am reducing a total of $8,576,000 in new additional funding for three projects, including the Chapter 1361, Statutes of 1987 (AB 377) Children's Mental Health System ($2,629,000), the Chapter 982, Statutes of 1988 (AB 3777) Adult System of Care Pilots ($2,247,000), and the Chapter 1294, Statutes of 1989 (SB 370) Mental Health Services for Wards and Dependents ($3,700,000). I support each of these programs and included all of these projects in my 1990-91 Governor's Budget. However, due to fiscal constraints and to ensure funding for other high priority programs, I can no longer support these expenditures.

I am reducing $61,000,000 from this item by adding an unallocated reduction This reduction is essential to provide funding for other high priority programs and to ensure a prudent General Fund reserve By allowing for an unallocated reduction in this item, the Department of Mental Health will have the opportunity to consult with the Conference of Local Mental Health Directors to effect reductions in county programs in accordance with local needs and priorities

I am deleting the $1,500,000 legislative augmentation to expand the Adult System of Care Pilot Projects to additional counties I signed Chapter 982, Statutes of 1988, which authorized the Adult System of Care demonstration program because it is important for California's mental health system to develop new service delivery models which can improve mental health care in a cost-effective manner However, it would be inappropriate to expand this demonstration project to additional counties before it has been thoroughly evaluated

I am deleting Provision 12 to conform to this action

Item 4440-141-001—For local assistance, Department of Mental Health, for services provided in Institutions for Mental Diseases I reduce this item from $72,585,000 to $68,212,000 by reducing

(a) 10.95 Institutions for Mental Diseases from $85,617,000 to $81,244,000,

and by deleting Provision 13.

I am revising reimbursements to make a technical correction by revising

(b) Reimbursements from —$13,632,000 to —$13,032,000.

I am reducing this item by $4,373,000 to fund 226 additional beds in Institutions for Mental Diseases (IMDs). I support the IMD program and included this funding for new beds in my January Budget However, in order to maintain funding for other high priority programs, and to maintain a prudent General Fund reserve, I am unable to support this expenditure.

I am deleting Provision 13, which would establish priorities for the allocation of the newly funded beds in Institutions for Mental Diseases, because the language is unclear as to its requirements and could therefore infringe on the Executive Branch's authority to manage state programs efficiently. Specifically, the language indicates that the first priority for the new beds shall be to meet the requirements of federal Nursing Home Reform (NHR). However, the language does not specify how many of the new beds must be allocated for this purpose. Furthermore, the Department of Mental Health advises that no beds need to be allocated during 1991 in order to meet the requirements of NHR In view of these facts, and to enable the department to allocate the beds to the areas of highest need, I am deleting this provision.

Item 4440-490—Reappropriation, Department of Mental Health I revise this item by reducing.

(4) Item 4440-001-001, Budget Act of 1989, from $621,000 to $300,000,

and by deleting Provision 1.

I am reducing the legislative reappropriation of $621,000 from Item 4440-001-001, Budget Act of 1989, to $300,000 This augmentation was proposed for the purposes of adding 2.5 personnel years and contracting funds for a state hospital staffing standards study. I agree that the staffing standards in the State hospitals should be updated to reflect changes in operating practices and in the requirements of various licensing and accreditation agencies since the last study was performed in 1973. However, given the delays inherent in soliciting contract assistance, and considering existing fiscal constraints, the department estimates that $300,000, which includes funds for up to 1.2 personnel years, will be sufficient to cover expenditures for this study during 1990-91

I am deleting Provision 1 because it contains unrealistic target dates for the completion of the staffing study I am, however, directing the department to comply with sections (a) and (b) of Provision 1, which refer to the technical aspects of standard setting, to the extent that these do not conflict with the requirements of other licensing, certification and accreditation agencies

Item 5160-101-001—For local assistance, Department of Rehabilitation I reduce this item from $80,462,000 to $80,314,000 by reducing.

(a) 10-Vocational Rehabilitation Services from $655,000 to $507,000,

and by deleting Provision 4.

I am deleting the $148,000 legislative augmentation for the Center for the Partially Sighted The proposed augmentation would provide a discretionary augmentation not directly tied to a service expansion. While I am supportive of this program, I am unable to provide discretionary adjustments. Such an action would create inequities among other important programs that are not being provided cost-of-living adjustments due to budgetary constraints.

I am deleting Provision 4 to conform to this action.

Item 5180-121-001—For local assistance, Department of Social Services I reduce this item from $4,194,000 to $2,894,000 by reducing:

(a) 10.12-Special Adult Programs from $4,269,000 to $2,969,000

I am reducing the Special Adult Programs by $1,300,000 from this item and $700,000 in the corresponding local assistance Item 5180-141-001 I am taking this action because spending mandates and entitlement formulas are currently estimated to expand well beyond the rate of increase in our revenues It is necessary to recognize that such restrictions are forcing the budget to increase substantially without regard to the availability of revenues. Consequently, this reduction is necessary to ensure fiscal responsibility for the future. Under the authority provided in the Welfare and Institutions Code Section 12601, I am directing the Director of the Department of Social Services to institute the necessary controls to administer this program within the amounts provided in the Budget Act.

Item 5180-141-001—For local assistance, Department of Social Services I reduce this item from $180,734,000 to $180,034,000 by reducing

(a) 10.20-County Administration from $798,811,000 to $798,111,000

I am reducing $700,000 from this item for the administration of the Special Adult programs to correspond with my action on this issue in Item 5180-121-001

Item 5180-141-890—For local assistance, Department of Social Services. I reduce this item from $639,591,000 to $617,627,000

I am reducing this item by $21,964,000 to make a technical correction to accurately reflect the amount of federal funds necessary for the County Administration program and to conform to the scheduled federal fund payable in Item 5180-141-001.

Item 5180-151-001—For local assistance, Department of Social Services I reduce this item from $819,632,563 to $760,798,563 by reducing

(a) 20.30-Other County Social Services from $523,952,000 to $467,602,000

(1) 20 30.010-Child Welfare Services Grant from $449,420,000 to $394,570,000, and
(2) 20 30 030-County Services Block Grant from $74,532,000 to $73,032,000,
(b) 20 35-Specialized Adult Services from $646,723,000 to $646,473,000
(2) 20.35.240-Maternity Care from $2,154,000 to $1,904,000,
(c) 20 40-Employment Services from $194,253,126 to $180,453,126,
(f) 20 47-Child Abuse Prevention from $20,300,000 to $10,250,000, and
(h) Amount payable from the Federal Trust Fund (Item 5180-151-890) from −$632,358,563 to −$610,742,563,

and by deleting Provisions 9, 10, 11, 12 and 15.

I am deleting the $27,423,000 legislative augmentation from this item and $10,216,000 in the Federal Trust Fund Item (5180-151-890) which would fund program growth in the Family Maintenance, Family Reunification and Permanent Placement Components of the Child Welfare Services Program The Budget will provide $7 7 million to fully fund caseload growth in the Emergency Response Component While I am supportive of child welfare services in California, limited state resources necessitate limiting or reducing the growth of the non-education areas of the budget

I am deleting Provision 12 which specifies the provisions under which the In-Home Supportive Services program currently operates This Provision is duplicative and merely restates current law Furthermore, if it was intended that this Provision provide substantive law changes, the Budget Act is not an appropriate mechanism to address changes in substantive law

I am deleting Provision 12 to conform to this action

I am deleting the $1,500,000 legislative augmentation to reestablish funding for the five Adult Protective Services (APS) pilot projects The 1989 Budget Act which I signed proposed to fund the APS projects in five counties at a General Fund cost of $607,000 through January 1, 1990 The pilot projects were intended to test, on a time-limited basis, various types of adult protective services to determine the most effective and cost efficient approaches of providing such services The Department of Social Services has collected this data and has completed the evaluation Consequently, the intention of this pilot has been met.

I am deleting Provision 15 to conform to this action

I am reducing the Maternity Care program in the amount of $250,000 The 1989-90 expenditures in this program are expected to be approximately $1,900,000, or 13 4 percent less than the $2,154,000 budgeted for maternity home care contractors. This program has, for the last four fiscal years, consistently underexpended its General Fund appropriation by an annual average of $252,000 Consequently, it is appropriate to provide General Fund at a level that more accurately reflects historical expenditures.

I am deleting Provision 9 to conform to this action.

I am deleting the $2,400,000 legislative augmentation from this item and $2,400,000 from the Federal Trust Fund (Item 5180-151-890), which was augmented to disallow the state from realizing General Fund savings by claiming enhanced federal financial participation for case management services in the Greater Avenues for Independence (GAIN) program This reduction is necessary to maintain funding levels for other vital state programs, hold spending income to growth income and to provide a proven prudent reserve for economic uncertainties

I am deleting the $9,000,000 legislative augmentation in federal funds which match the reappropriation for the GAIN program in Item 5180-490. I am also reducing the amount payable from the Federal Trust Fund (Item 5180-151-890) by a corresponding amount to conform with my actions in Item 5180-490

I am deleting Provision 10 because it inhibits the ability of counties to choose the most cost-effective method for implementing the GAIN program. This provision would limit a county's ability to consider operational alternatives which may prove to be fiscally beneficial to the state Therefore, this provision interferes with the Administration's ability to manage its programs and would result in increased costs to the state

I am deleting the $10,050,000 legislative augmentation which restores the funding for the Child Abuse Prevention Training Act (CAPTA) program. Under CAPTA, the Office of Child Abuse Prevention 1) distributes funds to grantees for child abuse prevention training and education to children, parents and teachers in the public school system and 2) supports two training centers. While I am supportive of efforts to ensure the health and safety of California's children, limited state resources necessitate limiting or reducing the growth of the non-education areas of the budget. Consequently, I am eliminating the General Fund for the CAPTA program. However, I am maintaining sufficient funds to continue the Office of Child Abuse Prevention and more importantly funds for direct services through the Child Abuse Prevention, Intervention and Treatment (CAPIT) Program. The CAPIT Program provides prevention, intervention and treatment services to children at risk of abuse or neglect. Given the difficult choices that are required to balance the budget and live within available revenues, priority should be given to programs providing direct services to high risk children Furthermore, since the CAPTA program is provided in state funded preschools and public schools, it would appear more appropriate for local school districts to determine, on a priority basis, whether to provide resources for these activities under Proposition 98. Specifically, local school districts have general purpose and staff development funds available that could be directed to these activities.

I am deleting Provision 11 to conform to this action

I am deleting the $17,211,000 in this item to provide funding for the Child Welfare Services 1989-90 cost-of-living adjustment. This Administration has had a policy of funding salary increases, given by counties, on a one year in arrears basis. However, in order to protect vital programs, hold spending growth to income growth and provide for a proven prudent reserve for economic uncertainties, this action is necessary

Item 5180-151-890—For local assistance, Department of Social Services. I reduce this item from $632,358,563 to $610,742,563

I am deleting the $10,216,000 legislative augmentation to fund program growth in certain portions of the Child Welfare Services program to correspond with my action on this issue in Item 5180-151-001

I am deleting the $2,400,000 legislative augmentation for the Greater Avenues for Independence (GAIN) program to correspond with my action on this issue in Item 5180-151-001

I am deleting the $9,000,000 legislative augmentation to match the reappropriation of funds for the GAIN program to correspond with my action on this issue in Item 5180-490

Item 5180-158-001—For local assistance, Department of Social Services. I revise this item by deleting subcategories (1), (2) and (3) of category (a) and deleting Provisions 1 and 2

These subcategories and provisions limit the ability of Los Angeles County and the Administration to choose the most cost-effective means of implementing the Greater Avenues for Independence (GAIN) program Prohibiting new intakes into the Los Angeles County GAIN program would also limit Los Angeles County and the Administration's ability to adjust the caseload in the GAIN program to conform to the target groups specified in the Job Opportunities and Basic Skills program contained in the federal Family Support Act. Not serving sufficient numbers of these target groups would jeopardize the receipt of enhanced federal financial participation in the GAIN program. These subcategories and provisions prohibit the Administration from choosing operational alternatives that are fiscally beneficial to the state, jeopardize the receipt of federal funds, and would invariably result in increased costs to the state.

I am deleting Provisions 1 and 2 to conform to this action.

Item 5180-181-001—For local assistance, Department of Social Services. I delete this item

Consistent with my policy to suspend the statutory cost-of-living adjustments (COLAs) in Health and Welfare programs, I am deleting the $114,278,000 legislative augmentation to restore the 4.62 percent COLA in the Aid to Families with Dependent Children program, the $145,457,000 legislative augmentation to provide a 4.62

percent COLA in the Supplemental Security Income/State Supplementary Program and the $3,131,000 legislative augmentation to restore the COLA in the In-Home Supportive Services program. I am also deleting the corresponding federal funds to conform to this action This action is consistent with the action that the Legislature has taken to suspend the COLAs as authorized by AB 3573 and SB 2097.

Item 5180-181-890—For local assistance, Department of Social Services. I reduce this item from $143,894,000 to $19,077,000.

I am deleting the $123,296,000 legislative augmentation to provide a statutory 4 62 percent cost-of-living adjustment in the Aid to Families with Dependent Children program, to correspond to my action on this issue in Item 5180-181-001.

I am deleting the $93,000 legislative augmentation to provide a 4.62 percent statutory cost-of-living adjustment in the Supplemental Security Income/State Supplementary Program, to correspond to my action on this issue in Item 5180-181-001

I am deleting the $1,428,000 legislative augmentation to provide a 4.62 percent statutory cost-of-living adjustment in the Refugee Cash Assistance program, to correspond to my action on this issue in Item 5180-181-001.

Item 5180-490—Reappropriation, Department of Social Services I delete paragraph (2) from this item.

I am deleting paragraph (2) and the reappropriation of $9,000,000 to maintain allocations for fiscal year 1990-91 in the Greater Avenues for Independence (GAIN) program at their 1989-90 fiscal year levels This reappropriation would reduce the amount of funds available to maintain a prudent reserve. In addition, any reappropriation of funds for the GAIN program should contain funds from the Proposition 98 reserve to provide education services to participants This reduction conforms to my other actions in Item 5180-151-001 and 5180-151-890

Item 5240-001-001—For support of the Department of Corrections I reduce this item from $2,096,173,000 to $2,096,171,000 by reducing:

(a) 21-Institution Program from $2,006,314,000 to $2,003,472,000,

(b) 31-Community Correctional Program from $191,818,000 to $191,504,000,

(e) Reimbursements from −$19,119,000 to −$15,965,000,

and by deleting Provisions 7, 8, 9 and 10.

I am deleting Provision 7 which would require the Department of Corrections to pursue all available federal funds to support substance abuse programs for inmates and parolees. This language duplicates the existing requirements of Section 8.5 and is therefore unnecessary.

I am deleting Provision 8 and reducing this item by $1,000 because requiring the Department of Corrections to obtain advance approval from the Legislature for all permanent mission changes will unduly restrict the department's flexibility in managing the inmate housing facilities and programs for a rapidly increasing and changing inmate population. Furthermore, the department currently provides the Legislature with detailed information at least twice a year regarding all current and anticipated mission changes Although costs have not been budgeted in 1990-91 for such reporting, I am reducing $1,000 to reflect the costs of this reporting requirement.

I am deleting Provision 9 and the legislative augmentations totaling $3,000,000 of grant funds from the Office of Criminal Justice Planning to support the Department of Corrections' substance abuse treatment programs. The proposed 1990-91 Budget provides more than $12,000,000 for the department to provide for drug intervention pilot projects, individual program assessments for inmates and parolees and other substance abuse programs. Without prejudice to any need to augment these resources with grant funds, this reduction conforms to action I have taken on the budget for the Office of Criminal Justice Planning. At the same time, I am sustaining the $333,000 legislative augmentation of grant funds from the Department of Alcohol and Drug Abuse Programs for an additional project to provide inmates pre-release substance abuse treatment to complement the increased local project funding for similar programs for parolees.

I am deleting Provision 10 and reducing this item by $1,000 because requiring the Department of Corrections to perform zero base analyses of Folsom Prison and the

Deuel Vocational Institution would duplicate the continuous and thorough review the department's prison staffing proposals already receive and because preparing such analyses within the unreasonably short deadlines required by the Legislature would require staff resources well beyond those provided in the department's 1990-91 budget. Although the costs of such analyses have not been budgeted in 1990-91, I am reducing $1,000 to reflect the costs of these analyses.

I am deleting the $154,000 legislative augmentation of grant funds from the Office of Criminal Justice Planning which were added to offset the redirection of an equal amount from the Department of Corrections' pre-release substance abuse program funds to provide additional counseling staff for the department's eight Prisoner Mother programs. These new positions represent a program expansion beyond the level proposed in the budget which is not justified when compared to other priorities.

Item 5240-311-746—For capital outlay, Department of Corrections. I delete this item and Provisions 1 and 2.

Chapter 165, Statutes of 1987, provided funding for the siting of a reception center in East Los Angeles and a prison in Lancaster; therefore, funding for the identification of other potential sites is not necessary.

I am deleting Provisions 1 and 2 to conform to this action.

Item 5240-497—Reversion, Department of Corrections. I delete this item.

I am deleting this reversion appropriation to be consistent with law and because the reversion adversely impacts public peace, health, and safety by stopping the construction of facilities needed to house the significant increase in state prisoners

Item 5460-001-001—For support of the Department of the Youth Authority I revise this item by reducing.

(b) 20-Institutions and Camps from $273,951,000 to $273,451,000,

(f) Reimbursements from −$18,890,000 to −$18,390,000,

and by deleting·

(g) Amount payable from the 1986 Prison Construction Fund (Item 5460-001-746), (−$147,000),

and by deleting Provisions 3 and 4.

I am deleting Provision 3 which would require the Department of the Youth Authority to pursue all available federal funds to support substance abuse programs for wards and parolees. This language duplicates the existing requirements of Section 8.5 and is therefore unnecessary.

I am deleting Provision 4 and the $500,000 legislative augmentation from the Office of Criminal Justice Planning grant funds for the implementation of the Department of the Youth Authority's Drug and Alcohol Abuse Program plan. This augmentation is premature because the Department has not completed such a plan.

I am deleting Schedule (g) to make a technical correction to the bill to conform to the legislative action taken to delete Item 5460-001-746.

Item 5460-101-001—For local assistance, Department of the Youth Authority. I am reducing this item from $73,905,000 to $40,905,000 by reducing:

(a) 10-Prevention and Community Corrections from $70,105,000 to $37,105,000,

and by revising Provision 4.

I am reducing this item by $33,000,000 in funding provided to support the County Justice System Subvention Program. This action is among the numerous program reductions needed to balance the General Fund budget and to provide for a proven prudent reserve. This action retains $34,298,000 in local subvention funding for this program which is sufficient for the counties to maintain important programs, including the costs of juvenile court reforms mandated by Chapter 1071, Statutes of 1976.

I am revising Provision 4 to conform to this action

"4. Of the amount appropriated within Schedule (a), ~~$67,298,000~~ *$34,298,000* is provided to support the County Justice System Subvention Program in accordance with Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code. Notwithstanding any other provision of law, any county receiving funds from the County Justice System Subvention Program shall use those funds in the 1990-91 fiscal year for the

purposes specified in Section 1806 of the Welfare and Institutions Code."

Item 6110-001-001—For support of Department of Education. I reduce this item from $49,903,000 to $33,973,000 by reducing:

(b) 20-Instructional Support from $36,566,000 to $24,144,000, and by adding:

Unallocated Reduction —$3,508,000,

I am reducing this item by 28 positions and $12,422,000 to eliminate the California Assessment Program. This action is necessary to protect higher priority programs and to provide for a proven prudent reserve for economic uncertainties I am setting aside $12 million within the Proposition 98 guarantee to be appropriated in separate legislation for a new assessment system for California. I have retained $720,000 to allow for an orderly transition of staff into other positions of employment

I am further reducing this item by an unallocated $3,508,000. When the impact of Section 3.80 is added to this reduction, the total reduction in this item will result in a ten per cent unallocated reduction. This action is necessary to protect vital programs and provide for a prudent reserve for economic uncertainties. This reduction has been adjusted by $50,000 to retain that amount for additional legal services for the State Board of Education.

Item 6110-005-001—For support of State Department of Education I delete Provision 2.

I am deleting Provision 2 which would allow transfers between Proposition 98 and non-Proposition 98 appropriations because the provision is inconsistent with two constitutional provisions First, the language violates the requirement that funds appropriated for Proposition 98 be allocated only to school districts, community college districts, or state agencies which provide direct instruction. Second, the language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act

Item 6110-006-001—For support of Department of Education (Proposition 98), as allocated by the Department of Education. I delete Provision 4

I am deleting Provision 4 which would allow transfers between Proposition 98 and non-Proposition 98 appropriations because the provision is inconsistent with two constitutional provisions. First, the language violates the requirement that funds appropriated for Proposition 98 be allocated only to school districts, community college districts, or state agencies which provide direct instruction Second, the language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act.

Item 6110-015-001—For support of Department of Education. I reduce this item from $402,000 to $327,000.

I am deleting the $75,000 legislative augmentation to fund a clearinghouse to recycle used and obsolete textbooks. This action is necessary to keep state spending growth in line with income growth

Item 6110-101-001—For local assistance, Department of Education (Proposition 98) I reduce this item from $9,919,227,000 to $9,911,665,000 by reducing·

(a) Program 10.10 001 001—School Apportionments, District Revenue Limit, for the purposes of Section 42238 of the Education Code from $9,751,582,000 to $9,744,282,000,

(b) Program 10.10.001.002—School Apportionments, for Necessary Small Schools, in addition to the amount appropriated in category (a) of this item for the purpose of subdivision (f) of Section 42238 of the Education Code from $19,075,000 to $18,813,000,

and by deleting Provisions 20, 22, 24, 26 and 27.

I am deleting the $7,300,000 legislative augmentation to provide a general declining enrollment adjustment. I am retaining a declining enrollment adjustment for those high school districts for which the feeder elementary school districts have increasing enrollments This is in addition to the one year declining enrollment adjustment already provided in statute

I am deleting Provisions 22 and 27 to conform to these actions.

I am deleting the legislative augmentation of $262,000 to fund necessary small high school adults in independent study programs at a higher rate than other adults in

independent study programs. Special treatment of necessary small schools, in this instance, is not warranted.

I am deleting Provision 24 to conform to this action.

I am deleting Provision 26 because this provision would set a precedent for small school districts to establish a minimum revenue guarantee I realize that, small schools may have a disproportionate loss in revenue when dropping from one category of supplemental revenue limit funding to another. However, it is inappropriate to disregard established definitions for funding necessary small schools. Exceptions to these limits would result in future pressure to fund similar types of minimum funding guarantees.

I am deleting Provision 20 because this provision would allow those school districts that are not correctly reporting property tax redemptions monies under current law to continue this practice for another year. This practice results in an under reporting of local revenues which offset state aid and, therefore, provides an unfair advantage to those districts over districts that are reporting revenues correctly.

Item 6110-106-001—For local assistance, Department of Education, (Proposition 98). I delete Provision 12.

I am deleting Provision 12 because this provision would allow those county offices of education that are not correctly reporting property tax redemption monies under current law to continue this practice for another year. This practice results in an under reporting of local revenues which offset state aid and, therefore, provides an unfair advantage to those counties over county offices of education that are reporting these revenues correctly

Item 6110-111-001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 10 10—School Apportionments. I reduce this item from $327,067,000 to $323,067,000 by reducing:

(a) Program 10.10.006—School Apportionments, for the purposes of Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code from $323,770,000 to $319,770,000

I am deleting $4,000,000 of the $10,000,000 legislative augmentation for population growth for home-to-school transportation.

This reduction is necessary to ensure the total appropriations for Proposition 98 will not exceed the guarantee

Item 6110-114-001—For local assistance, Department of Education (Proposition 98). I reduce this item from $433,820,000 to $425,519,000 by reducing:

(2) 10.10.018.010-Los Angeles Unified School District from $319,613,000 to $314,613,000, and

(5) 10.10.018 025-San Francisco Unified School District from $30,884,000 to $27,583,000,

and by revising Provision 5.

I am deleting the $3,300,000 legislative augmentation for the San Francisco Unified School District court-ordered desegregation program that would continue 100 percent state reimbursement for program costs. The U.S Court of Appeals has ruled that the required state reimbursement rate is the 80 percent rate established in the Education Code. This deletion would fund the San Francisco program at the statutory level.

I am reducing $5,000,000 for the Los Angeles Unified School District, which was included in the district's budget for the purpose of financing its capital outlay loan I am also reducing $1,000 for the San Francisco Unified School District, which had not previously included capital outlay costs in its budget. I am revising Provision 5 of this item to delete language which would permit reimbursement of the capital outlay costs of the Los Angeles and San Francisco Unified School Districts as well as facilities remodeling claims of all school districts with court-ordered desegregation programs. The State School Building Lease- Purchase program is the appropriate source to fund school district capital outlay costs.

"5. Funds appropriated in this item shall not be used to reimburse local educational agency claims for school construction, reconstruction, replacement of facilities, purchase of existing facilities, purchase of land, or the performance

of deferred maintenance activities on facilities; ~~except for costs incurred pursuant to direct contractual commitments signed or court orders issued prior to June 30, 1990. Funds allocated to the San Francisco Unified School District for capital outlay costs from this item shall not exceed $15,000,000 in 1990-91.~~

~~This provision shall not be construed to exclude reimbursement for costs of remodeling existing facilities, provided that the remodeling is required in order to implement a desegregation-related educational program. Reimbursement for remodeling costs from this item shall be limited to 10 percent of the costs of replacing the facility being remodeled~~ "

Item 6110-115-001—For local assistance, Department of Education. I reduce this item from $78,824,000 to $76,218,000 by deleting:

(43) 10 10.019 043—*Instruction· School Apportionments—voluntary* desegregation-Grant Joint Union High School District ($2,606,000),

and by revising Provision 5

I am deleting this $2,606,000 legislative augmentation. The voluntary desegregation program at the Grant Joint Union High School District will not be implemented until September, 1990 Consistent with how such claims were treated in 1989-90, initial funding for new programs should be provided through the deficiency process following audit of actual claims by the State Controller.

I am also revising Provision 5 to delete language which would authorize reimbursement of capital outlay expenses of the Los Angeles and San Francisco Unified School Districts to conform with actions taken in Item 6110-114-001.

"5. Funds appropriated in this item shall not be used to reimburse local education agency claims for school construction, reconstruction, replacement of facilities, purchase of existing facilities, purchase of land, or the performance of deferred maintenance activities on facilities; ~~except for costs incurred pursuant to direct contractual commitments signed or court orders issued prior to June 30, 1990. Funds allocated to the San Francisco Unified School District for capital outlay costs from this item shall not exceed $15,000,000 in 1990-91.~~

~~This language is not intended to exclude reimbursement for costs of remodeling existing facilities, provided that the remodeling is required in order to implement a desegregation-related educational program. Reimbursement for remodeling costs from this item shall be limited to 10 percent of the costs of replacing the facility being remodeled~~ "

Item 6110-117-001—For local assistance, State Department of Education I delete Provision 1

I am deleting Provision 1 which would allow transfers between Proposition 98 and non-Proposition 98 appropriations because the provision is inconsistent with two constitutional provisions First, the language violates the requirement that funds appropriated for Proposition 98 be allocated only to school districts, community college districts, or state agencies which provide direct instruction. Second, the language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act

Item 6110-118-001—For local assistance, Department of Education (Proposition 98). I delete Provision 1.

I am deleting Provision 1 which would allow transfers between Proposition 98 and non-Proposition 98 appropriations because the provision is inconsistent with two constitutional provisions. First, the language violates the requirement that funds appropriated for Proposition 98 be allocated only to school districts, community college districts, or state agencies which provide direct instruction. Second, the language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act

Item 6110-120-001—For local assistance, Department of Education (Proposition 98). I reduce this item from $13,150,000 to $11,737,000 and revise Provisions 2 and 4, and delete provision 7

I am deleting the $1,413,000 legislative augmentation for expansion of dropout

recovery programs and educational clinics. While I am supportive of efforts in this area, this program is not as high a priority as funding statutory growth, and class size reduction.

Consistent with this action I am revising Provisions 2 and 4 and deleting Provision 7

"2. Of the amount appropriated in this item, ~~$2,000,000~~ *$1,400,000* shall be available for the funding of outreach consultants by up to 50 school districts with dropout recovery program plans developed in accordance with Chapter 1431, Statutes of 1985."

"4. Of the amount appropriated in this item, ~~$1,900,000~~ *$1,600,000* shall be available for payments to certified educational clinics established in accordance with Chapter 3.5 (commencing with Section 58550) of Part 31 of the Education Code "

Item 6110-128-001—For local assistance, Department of Education (Proposition 98) I delete Provision 1.

I am deleting Provision 1 which would allow transfers between Proposition 98 and non-Proposition 98 appropriations because the provision is inconsistent with two constitutional provisions. First, the language violates the requirement that funds appropriated for Proposition 98 be allocated only to school districts, community college districts, or state agencies which provide direct instruction Second, the language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act

Item 6110-129-001—For local assistance, State Department of Education I delete Provision 1

I am deleting Provision 1 which would allow transfers between Proposition 98 and non-Proposition 98 appropriations because the provision is inconsistent with two constitutional provisions First, the language violates the requirement that funds appropriated for Proposition 98 be allocated only to school districts, community college districts, or state agencies which provide direct instruction. Second, the language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act.

Item 6110-151-001—For local assistance, Department of Education (Proposition 98) I delete this item and Provision 1.

I am deleting $2,372,000 for the Indian Education Centers due to the need to protect higher priority programs and to provide for a prudent reserve for economic uncertainties

I am deleting Provision 1 to conform to this action

Item 6110-161-001—For local assistance, Department of Education (Proposition 98) I delete Provision 14

I am deleting Provision 14 because this would allow those county offices of education which are not correctly reporting property tax redemption monies under current law to continue this practice for another year This practice results in an under reporting of local revenues which offset state aid and, therefore, provides an unfair advantage to those counties over county offices of education that are reporting these revenues correctly.

Item 6110-161-890—For local assistance, Department of Education. I delete Provision 10

I am deleting Provision 10 which would allocate $200,000 to the Timpany Center because the federal grant is fully allocated and would require a reduction in other programs to fund the Center. The Timpany Center is operated by a private foundation While I am supportive of the efforts of organizations like the Timpany Center, educational programs are a higher priority for the use of limited resources

Item 6110-171-178—For local assistance, Department of Education. I reduce this item from ($21,236,000) to ($1,000)

I am reducing funds available for the Driver Training Program from $21,236,000 to $1,000 due to the need to protect vital programs and provide for a proven prudent reserve for economic uncertainties

This program should be funded under the provisions of Proposition 98. Therefore I am setting aside $21,000,000 for the purpose of funding a driver education program.

Item 6110-190-001—For local assistance, Department of Education (Proposition 98). I delete this item and Provision 1.

I am deleting the $293,000 legislative augmentation to establish a Global Studies Demonstration Project in the La Canada Unified School District. This project is not as high a priority as statutory growth and class-size reduction.

I am deleting Provision 1 to conform to this action.

Item 6110-192-001—For local assistance, State Department of Education. I delete this item and Provision 1.

I am deleting the $1,603,000 in funding for non-Proposition 98 K-12 staff development programs. This action is necessary to protect vital programs, hold spending growth to income growth and to provide for a prudent reserve for economic uncertainties

I am deleting Provision 1 to conform to this action.

I am also deleting funds in Item 6110-227-001 to conform to this action

Item 6110-196-001—For local assistance, Department of Education. I reduce this item from $352,105,000 to $348,105,000 by adding:

Unallocated Reduction —$4,000,000,

and by deleting Provisions 14 and 18.

The Legislature has included the entire Child Development appropriation within the Proposition 98 guarantee. Consistent with the Constitution and the court decision, only appropriations of funding to be allocated to school districts, community college districts, or state agencies that provide direct elementary and secondary level instruction are eligible for Proposition 98. Therefore, I am deleting the Proposition 98 designation in this item because it is inconsistent with the Constitution, and I am instructing the Director of Finance to designate $132,925,000 of the funds appropriated in this item and $4,108,000 of the funds appropriated for cost-of-living adjustments as non-Proposition 98 appropriations. These amounts were derived using the funding level of contracts for child development programs operated by private providers during the 1989-90 fiscal year The remainder of this item will continue to be designated as Proposition 98 appropriations and may only be allocated to school districts or county offices of education.

I am reducing this item by $4,000,000 to recognize the availability of carryover funds authorized by statute from prior year unearned contract funds in the child development program. These funds should be used in place of a direct appropriation for services, which are a higher priority than the purposes which the Child Development Advisory Committee has recommended This reduction has been reflected in the above total for private provider programs.

I am deleting Provision 14 to conform to this action

In addition, I am specifically deleting Provision 18 which requires the Department of Finance to create a new formula for estimating the 0-4 population. This estimate is used to determine child care growth funding, capital outlay projections and mental health allocations. Such a change would have an impact on all population estimates and create massive funding shifts in numerous programs. This language violates the separation of powers provision of the Constitution concerning Executive Branch authority. Additionally, because existing law does not define the formula to be used by the Department of Finance in making its demographic projections, the language represents a substantive law change which can only be included within a single subject bill, not the Budget Act.

I am revising Section 12.32 to conform with these actions

I am revising this item to conform with these actions as follows

"6110-196-001—For local assistance, Department of Education ~~(Proposition 98)~~, Program 30.10—Child Development.

Item 6110-201-001—For local assistance, Department of Education (Proposition 98). I delete Provision 4

I am deleting Provision 4 which would allow transfers between Proposition 98 and non-Proposition 98 appropriations because the provision is inconsistent with two

constitutional provisions First, the language violates the requirement that funds appropriated for Proposition 98 be allocated only to school districts, community college districts, or state agencies which provide direct instruction. Second, the language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act

Item 6110-202-001—For local assistance, Department of Education I delete Provision 3.

I am deleting Provision 3 which would allow transfers between Proposition 98 and non-Proposition 98 appropriations because the provision is inconsistent with two constitutional provisions. First, the language violates the requirement that funds appropriated for Proposition 98 be allocated only to school districts, community college districts, or state agencies which provide direct instruction. Second, the language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act

Item 6110-224-001—For local assistance, Department of Education (Proposition 98). I reduce this item from $51,846,000 to $8,693,000 by reducing:

(a) 10.10.950—School Apportionments (year-round school incentive payments) from $51,546,000 to $8,453,000, and

(b) 10.10.020—Year-Round School Demonstration Program (Orchard Plan) from $300,000 to $240,000,

and by revising Provisions 1, 2, and 3,

and by deleting Provisions 4, 5, 6, 7, 8, 9, and 10.

Consistent with my proposal in January, I am deleting the $43,093,000 legislative augmentation to restore funding for the existing $125 year-round school incentive program, and setting aside $27,768,000 to be appropriated in separate legislation to reform this program so that it will achieve its original intent to permanently reduce the need for new school construction

I am also reducing the budgeted amount for the Orchard Plan Demonstration Program by $60,000 This program was intended to provide funds to five school districts. Since only four districts are currently participating, the funds for the fifth district are not necessary

I am revising Provisions 1, 2, 3, and deleting Provisions 4, 5, 6, 7, 8, 9, and 10 to conform to this action

"1 The funds appropriated in Schedule (a) of this item shall be the only funds allocated as incentive payments for year-round school operations pursuant to Sections 42250 ~~and 42250.3~~ of the Education Code

2. Applications for year-round incentive payments pursuant to Sections 42250 ~~and 42250.3~~ of the Education Code must annually be received by the Office of Local Assistance by no later than December 31 of the year in which the year-round operation occurred and for which payment is sought; applications received after that date shall not be processed The Office of Local Assistance shall certify all eligible and approved claims to the Superintendent of Public Instruction by no later than April 1 of the following year. In the event that the funds available for a fiscal year are insufficient to fully pay all claims for that year, the Superintendent of Public Instruction shall at that time provide all approved claims with a prorated share of the funds made available.

3. If a district receives state reimbursement specifically attributable to the cost of operating schools on a year-round basis pursuant to a court-ordered or voluntary desegregation program, the district shall be eligible for any portion of the allowances for incentive payments pursuant to Sections 42250 ~~and 42250.3~~ of the Education Code for the 1990-91 fiscal year but only to the extent that the district incurs costs in 1990-91 specifically attributed to operating schools on a year-round basis, as audited and approved by the State Controller, that exceed claims submitted for state reimbursement and deemed to be allowable costs by the State Controller for such year-round operation pursuant to Sections 42243.6 and 42249 of the Education Code for the 1990-91 fiscal year. Funds may be distributed during the 1990-91 fiscal year pursuant to this provision However, the State Controller shall audit and

may make adjustments to the funds distributed under this item in future years"

Item 6110-226-001—For local assistance, Department of Education (Proposition 98), for cost-of-living increases. I reduce this item from $831,996,000 to $586,396,000 by reducing

(a) 10.10—School Apportionments from $673,927,000 to $474,104,000 by reducing:
(1.5) 10.10.001.001-K-12 District Revenue Limit from $616,077,000 to $432,627,000,
(2) 10.10.001.002-K-12 Districts, Necessary Small Schools from $3,197,000 to $2,251,000,
(3) 10.10.001 004-Meals for Needy Pupils Programs from $1,592,000 to $1,121,000,
(4) 10.10 001 005-Apprentice Programs from $243,000 to $171,000,
(5) 10 10.004-Regional Occupational Centers and Programs from $9,870,000 to $6,951,000,
(6) 10.10.005-K-12 County Offices of Education from $12,127,000 to $8,567,000,
(7) 10 10.011-Summer School Programs from $4,493,000 to $3,164,000,
(8) 10 10 018—Court-ordered Desegregation from $18,341,000 to $12,766,000,
(9) 10 10.019-Voluntary Desegregation from $3,247,000 to $2,287,000,

and by deleting:

(9.5) 10.10.950—Year Round School Incentive Payments ($541,000)

and by reducing:

(b) 10 30-Other Compensatory Programs from $10,723,000 to $7,973,000 by deleting:
(1) 10 30.050 American Indian Education Centers ($24,000), and reducing·
(4) 10.30.070-Economic Impact Aid from $10,636,000 to $7,910,000,

(c) 10.50-Adult Education from $12,000,000 to $8,451,000 by reducing·
(1) 10 50 010.001-from $11,864,000 to $8,355,000,
(2) 10.50.010.002-Adults in Correctional Facilities from $136,000 to $96,000,

(d) 10 60-Special Education from $91,563,000 to $64,481,000 by reducing.
(1) 10 60.000-Special Education Program for Exceptional Children from $89,677,000 to $63,153,000,
(2) 10.60.001-Special Education from $1,886,000 to $1,328,000,

(e) 10 80-Special Instructional Programs from $1,217,000 to $857,000 by reducing: 10.80.010-Gifted and Talented Program from $1,217,000 to $857,000,

(f) 20 20 020-Instructional Materials from $5,330,000 to $3,754,000 by reducing
(1) 20 20 020 001-Instructional Materials Management and Distribution for Kindergarten through grade 8 from $4,254,000 to $2,996,000,
(2) 20 20.020 002-Instructional Materials Management and Distribution for grades 9 through 12 from $1,076,000 to $758,000,

(gc) 20 60-Improving School Effectiveness from $17,448,000 to $12,133,000 by reducing:
(1) 20.60.010 001-Administrator Training and Evaluation Program from $222,000 to $156,000,
(2) 20.60.030 010-School Improvement Program for Grades K-6 from $10,914,000 to $7,686,000,
(3) 20.60.030 020-School Improvement Program for Grades 7-12 from $2,126,000 to $1,497,000,
(4) 20.60.050.001-Mentor Teacher Program from $2,966,000 to $1,909,000,
(5) 20 60.050.002-Beginning Teacher Support and Assessment from $137,000 to $95,000,
(6) 20.60.050 004-Staff Development Plans, Regional and Subject Centers from $885,000 to $623,000,
(7) 20.60.070 000-Staff Development, Bilingual Teacher Training from $39,000 to $27,000,
(8) 20.60.110 000-Reader Services for Blind Teachers from $10,000 to $7,000,
(11) 20.60.140.000-Staff Development, Teacher Improvement (DOE/CSU) from $52,000 to $36,000,

(h) 30 10-Child Care Programs from $14,735,000 to $10,376,000 by reducing:
(1) 30 10 010.000-Special Programs-Preschool education from $1,663,000 to $1,170,000,
(2) 30 10 020.001-General child development programs from $9,307,000 to $6,554,000,
(3) 30 10 020.002-Campus children's centers from $285,000 to $201,000,
(4) 30 10.020 003-School age parenting and infant development from $310,000 to $218,000,
(5) 30 10 020 004-Migrant daycare from $327,000 to $230,000,
(6) 30.10.020 005-Special allowances for rent from $20,000 to $14,000,
(7) 30 10 020.006-Special allowances for handicapped from $33,000 to $23,000,
(8) 30 10 020.007-Alternative payment program from $1,478,000 to $1,041,000,
(9) 30.10 020.008-Resource and referral from $341,000 to $240,000,
(10) 30 10 020 009-Campus child care tax bailout from $187,000 to $132,000,
(11) 30.10 020 010-Protective services from $47,000 to $34,000,
(12) 30 10 020 015-Extended day care from $718,000 to $506,000,
(13) 30.10 020 018-Exceptional needs from $19,000 to $13,000,
(i) 30 20-Child Nutrition from $2,102,000 to $1,316,000 by reducing:
(1) 30 20 010-Child Nutrition from $2,095,000 to $1,311,000,
(2) 30 20.020-Child Nutrition, Pregnant/Lactating Minors from $7,000 to $5,000,

I am eliminating the COLA for Year Round Schools because increases are already included in Item 6110-224-001. The reduction for the desegregation program conforms with my action in Item 6110-114-001 The reduction for the Mentor Teacher Program is a technical correction I also am eliminating $24,000 for the Indian Education Centers to conform with my action in Item 6110-151-001

I am further reducing the remaining schedules to provide a 3 percent cost-of-living adjustment for education programs

I am also revising Provision 1 of this item to reflect the actual amount of funding owed to K-12 education for the Proposition 98 guarantee in 1988-89

1 Of the amount appropriated in this item, ~~$24,989,000~~ *$21,644,000* is in satisfaction of the Proposition 98 minimum funding requirements for the 1988-89 fiscal year.

Item 6110-227-001—For local assistance, Department of Education. I reduce this item from $249,000 to $201,000 by deleting

(b) (1) 20 60 120.000—Staff Development, International Studies ($29,000),
(b) (2) 20.60.125—Geog. Education Alliances ($3,000),
(b) (3) 20.60.155—Regional Resource Science Center ($16,000).

The elimination of the COLA for staff development programs conforms with my action in Item 6110-192-001.

Item 6110-490—Reappropriation, Department of Education.

I am revising this item as follows.

001—General Fund

(1) Item 6110-224-001 (a), Budget Act of 1989, 10.10.950—School Apportionments (year-round school incentive payments)
~~(2) Item 6110-224-001 (b), Budget Act of 1989, 10.10.020—Year-Round school Demonstration Project (Orchard Plan).~~
(3) Section 12.31, Budget Act of 1989 (K-12 education share) up to ~~$120,000,000.~~ *$10,090,000*
(4) ~~Item 6110-191-001 (b), Budget Act of 1989, 20 60.50.00'—Mentor Teacher Program.~~

This item would reappropriate $119,200,000 from the 1989-90 Proposition 98 Reserve to augment the 1990-91 COLA for local education agencies and $800,000 for SB 1274. However, $109,910,000 of these funds should be used for class size reduction in accordance with the agreements reached with the Legislature relating to Chapters 82, 83 and 92, Statutes of 1989. Therefore, I am setting aside that amount for appropriation in separate legislation and reducing both of the nonappropriations. With these reductions, there will remain ~~$37,763,000~~ *$10,090,000* to be used for cost-of-living adjustments.

I am also deleting the $60,000 reappropriation for the Orchard Plan Demonstration Program. This program was intended to be implemented in five school districts. However, only four had applied by the statutory deadline It is not reasonable for a fifth district to be added for the final two years of this program.

In addition, I am deleting the $6,000,000 reappropriated from the Mentor Teacher Program for SB 1274 I am setting aside this amount for appropriation in separate legislation to establish a demonstration program of restructuring education

I am revising Provision 6, and deleting Provisions 3, 7, and 8, to conform to this action.

6 Of the amount reappropriated by category (3) of this item, ~~$119,200,000~~ *$10,090,000* shall be available from Section 12 31 of the Budget Act of 1989 to augment Item 6110-226-001 of this act.

Item 6120-011-001—For support of Department of Education, California State Library I reduce this item from $11,337,000 to $11,334,000 by reducing:

(a) 50-Library Services from $13,020,000 to $13,017,000

I am deleting the $3,000 legislative augmentation to fund increased usage of the toll-free telephone line for the Braille and Talking Book Library This expense can be absorbed within the current budget

Item 6120-211-001—For local assistance, Department of Education, California State Library. I reduce this item from $14,244,000 to $12,979,000 by reducing:

(a) 50.20.010 - California Literacy Campaign from $4,328,000 to $3,063,000.

I am deleting the $265,000 legislative augmentation to expand the California Literacy Campaign program. While I am supportive of efforts in this area, this action is necessary to keep state spending growth in line with income growth This action is necessary to protect vital programs, hold spending growth to income growth and provide for a proven prudent reserve for economic uncertainties.

I am reducing $1,000,000 available for the California Literacy Campaign as part of the agreement with the Legislature on the 1990-91 budget. This action is necessary to protect vital programs, hold state spending growth to income growth and provide a proven prudent reserve for economic uncertainties

Item 6120-221-001—For local assistance, Department of Education. I reduce this item from $20,600,000 to $16,600,000.

I am reducing the Library Foundation Program by $4,000,000 This action is necessary to protect vital programs, hold state spending growth to income growth and provide a proven prudent reserve for economic uncertainties.

Item 6420-011-001—For support of the California Postsecondary Education Commission. I reduce this item from $90,000 to $15,000.

I am deleting the $75,000 legislative augmentation for the California Planning Commission for Educational Technology. Considering the many demands for limited state resources, the augmentation for the commission is not supportable at this time. In addition, the funding I proposed in the budget is consistent with the level of General Fund support estimated to be needed at the time the bill was enacted.

Item 6440-001-001—For support of University of California I reduce this item from $2,106,921,000 to $2,096,921,000 by reducing.

(a) Support from $2,040,817,000 to $2,030,817,000

I am reducing this item in the amount of $10,000,000 to reflect the ten percent increase in the University of California resident student fees included as part of the comprehensive agreement with the Legislature on the 1990-91 Budget. This reduction is necessary to achieve a balanced budget while maintaining a prudent reserve With this reduction, I have provided sufficient financial aid funding for students from low income families who would be unable to afford the fee increase.

It is my intent that the Board of Regents act on increasing student fees to reflect my action.

Item 6610-001-001—For support of the California State University. I reduce this item from $1,654,973,000 to $1,654,358,000 by reducing:

(c) 04-Academic Support from $216,365,150 to $216,294,000,

(d) 05-Student Service from $177,531,850 to $176,988,000,

and by deleting Provision 10

I am deleting the $71,150 legislative augmentation to fund facilities rental at the Stockton off-campus center of California State University (CSU), Stanislaus. This action is necessary to keep state spending growth in line with income growth.

I am deleting the $543,850 legislative augmentation and 25.8 personnel years to enhance services for disabled students. While I am supportive of efforts in this area, I am unable to support this augmentation due to limited state resources and the need to provide for a proven prudent reserve for economic uncertainties.

I am deleting Provision 10 which states legislative intent that there be no layoffs of full-time or part-time faculty or staff as a result of unallocated budget reductions. This language is unnecessarily restrictive in that it limits the CSU's management flexibility While I do not encourage layoffs, it is not appropriate to restrict management flexibility at CSU

Item 6860-001-001—For support of California Maritime Academy. I reduce this item from $6,988,500 to $6,968,500 by revising

(f) Reimbursements from —$2,248,500 to —$2,268,500.

I am reducing this item in the amount of $20,000 to reflect the 10 percent increase in the California Maritime Academy resident student fees included as part of the comprehensive agreement with the Legislature on the 1990-91 Budget. This reduction is necessary to achieve a balanced budget while maintaining a prudent reserve. With this reduction, I have provided sufficient financial aid funding for students from low income families who would be unable to afford the fee increase.

Item 6870-001-959—For support of Board of Governors of the California Community Colleges. I delete Provision 1.

I am deleting Provision 1 which would require that any federal Title IV(e) funds received as reimbursement for foster parent training activities be deposited into the Foster Children and Parent Training Fund. This provision would unnecessarily restrict use of these funds

Item 6870-101-001—For local assistance, Board of Governors of the California Community Colleges I reduce this item from $1,709,037,000 to $1,685,733,000 by reducing

(a) 10-Apportionments from $1,543,859,000 to $1,526,874,000,

(o) 20 40 020-Deferred Maintenance from $15,000,000 to $8,681,000,

and by deleting Provisions 3, 3 1 and 22,

and by revising Provision 6.

I am deleting the $1,201,000 legislative augmentation for growth in average daily attendance (ADA) above statutory attendance limits. I am also deleting $5,000,000 of the funds appropriated in Schedule (a) for growth in ADA over the statutory limits. My actions are necessary to ensure that there is no over-appropriation of funds needed to meet the funding requirements of Proposition 98 for the California Community Colleges. The budget provides $38,900,000 to fully fund statutory growth. In addition, $4,664,000 is provided in Item 6870-493 for growth in ADA above statutory attendance limits

I am deleting Provision 3 to conform to this action.

I am deleting the $2,366,000 legislative augmentation for growth funds for new centers at Mt San Jacinto and Riverside Community College Districts. This action is necessary to ensure that there is no over-appropriation of funds needed to meet the funding requirements of Proposition 98 for the California Community Colleges. To support ADA growth at these new centers, the Chancellor may allocate part of the $38,900,000 budgeted for statutory growth or part of the $4,664,000 reappropriated for growth above the statutory limit.

I am deleting Provision 3.1 to conform to this action.

I am reducing the funds allocated for Deferred Maintenance in Schedule (o) by $6,319,000. This is necessary to ensure that there will be sufficient Transitional Program Improvement Funds to implement Phase II of program reforms pursuant to Chapter 973, Statutes of 1988, and to ensure that there will not be an over-appropriation of funds necessary to meet the funding requirements of Proposition 98 for the California Community Colleges

I am deleting $8,418,000 of the funds appropriated in Schedule (a) to appropriately reflect the California Community Colleges share of the 1988-89 Proposition 98 funds I am revising Provision 6 to conform to this action.

"6. (a) Of the amount appropriated in Schedule (a), ~~$54,751,000~~ *$46,333,000* is for allocation by the chancellor for partial funding of the $70,000,000 in Transitional Program Improvement Funds needed for implementation of Phase II of program reforms pursuant to Chapter 973 of the Statutes of 1988 These funds are subject to the allocation and expenditure provisions of Section 84755 of the Education Code. In subsequent years, these funds will be considered as part of the $70,000,000 needed in the annual level of Transitional Program Improvement Funds necessary for implementation of Phase II.

(b) Of the amount in this Provision, ~~$10,918,000~~ *$2,500,000* is in satisfaction of the Proposition 98 minimum funding requirements for the 1988-89 fiscal year. This amount shall be allocated for funding of the $70,000,000 in Transitional Program Improvement Funds needed for implementation of Phase II of program reforms pursuant to Chapter 973 of the Statutes of 1988. These funds are subject to the allocation and expenditure provisions of Section 84755 of the Education Code. In subsequent years, these funds will be considered as part of the $70,000,000 needed in the annual level of Transitional Program Improvement Funds necessary for implementation of Phase II.

(c) It is the intent of the Legislature that in building the budget for 1991-92, the highest priority for base funding be given to sustaining the reforms pursuant to Chapter 973 of the Statutes of 1988, funded in 1990-91 "

As part of my actions above, I am setting aside $8,418,000 of 1990-91 Proposition 98 funds to be appropriated in separate legislation in order to complete the full funding of the $70,000,000 in Transitional Program Improvement Funds needed for implementation of Phase II reforms.

I am deleting Provision 22 because this provision would allow those community college districts that are not correctly reporting property tax redemptions monies under current law to continue this practice for another year. This practice results in an under reporting of local revenues which offset state aid and, therefore, provides an unfair advantage to those districts over districts that are reporting revenues correctly.

Item 6870-101-959—For local assistance, Board of Governors of the California Community Colleges. I delete Provision 1.

I am deleting Provision 1 which would require that any federal Title IV(e) funds received as reimbursement for foster parent training activities be deposited into the Foster Children and Parent Training Fund This provision would unnecessarily restrict use of these funds.

Item 6870-492—Reappropriation, Board of Governors of the California Community Colleges. I delete this item.

I am deleting the reappropriation made from the General Fund unencumbered in the current year for a study of the Education Employee Reform Act Due to limited General Fund resources in the budget year, and due to the fact that statute does not require the study to be completed until January, 1993, funding for the study in 1990-91 is not warranted.

Item 7980-101-001—For local assistance, Student Aid Commission. I reduce this item from $158,900,000 to $156,400,000 by reducing.

(a) 15-Financial Aid Grants Program from $172,914,000 to $170,414,000,

and by revising Provisions 2 and 3

I am deleting the $2,500,000 legislative augmentation to expand the number and amount of Cal Grants and to support the Willie Brown Community Services Scholarship Program. This expansion is not of sufficiently high priority to justify the use of limited state resources and is inconsistent with the need to protect vital programs, hold spending growth to income growth and provide for a proven prudent reserve for economic uncertainties.

I am revising Provisions 2 and 3 to conform to this action

"2 ~~In order to eliminate reversions of funds from direct financial aid programs, the number of new Cal Grant A awards shall be augmented by 115 grants, for a total of 17,515 grants in the 1990-91 fiscal year, and the number of new Cal Grant B awards shall be augmented by 480 grants, for a total of 12,730 grants in the 1990-91 fiscal year The Cal Grant B maximum subsistance award shall be increased by $20 to a maximum of $1,430 in the 1990-91 fiscal year, and the Cal Grant A and B maximum award shall be increased by $108 to a maximum $5,358 The Community Services Scholarship Program authorized pursuant to Chapter 1188, Statutes of 1989, shall be funded in the amount of $1,796,000~~ Notwithstanding any other provision of law, of the ~~17,515~~ *17,400* new grants funded in Schedule (a) for Cal Grant A for the 1990-91 fiscal year, 500 grants shall be awarded to community college students who transfer to a four-year college or university

3 Notwithstanding any other provisions of law, of the ~~12,730~~ *12,250* new grants funded in Schedule (a) for Cal Grant B for the 1990-91 fiscal year, 250 grants shall be awarded to community college students who transfer to a four-year college or university "

Item 8100-101-196—For local assistance, Office of Criminal Justice Planning I delete Provision 2

I am deleting Provision 2 which was added by the Legislature to require the Office of Criminal Justice Planning to distribute funds in the Asset Forfeiture Distribution Fund in accordance with the provisions of Chapter 1492, Statutes of 1988 Provision 2 restates existing statutory law and is therefore unnecessary

Item 8100-101-425—For local assistance, Office of Criminal Justice Planning I reduce this item from $15,520,000 to $15,519,000 by reducing

(a) 50 21 010-Victim/Witness Assistance Program from $10,872,500 to $10,871,500, and by deleting Provision 2

I am reducing this item by $1,000 and deleting Provision 2 which requires the Office of Criminal Justice Planning to obtain an independent audit of expenditures of Victim/Witness Assistance funds The Office of Criminal Justice Planning currently requires grantees of Victim/Witness Assistance grants to obtain an independent audit of grant expenditures to ensure that those funds are used only for purposes expressed in statutes Although funding was not provided for the costs associated with this provision, I am reducing $1,000 from this item to reflect savings that will be achieved based on vetoing language contained in Provision 2 of this item

Item 8100-101-890—For local assistance, Office of Criminal Justice Planning. I reduce this item from $50,141,000 to $48,389,000 by reducing

(f) 50 71 120-Federal Anti-Drug Abuse Program from $37,507,000 to $35,755,000

I am deleting $1,500,000 for the CrackDown Cocaine Task Force program in the Department of Justice to reflect the availability of $1,500,000 saved from the appropriation in legislation creating this program, Chapter 1453, Statutes of 1989 This action will provide the level of funding for this program I proposed in January. This action to reduce $1,500,000 conforms to the action I have taken to reduce reimbursement authority in Item 0820-001-001

I am deleting $252,000 for the Drug Enforcement Narcotics Team in the Department of Alcoholic Beverage Control to conform to legislative action which deleted funding for this program by reducing reimbursements in Item 2100-001-001

Item 8100-121-001—For local assistance, Office of Criminal Justice Planning I reduce this item from $26,700,000 to $26,470,000 by reducing:

(a) 50 41 020-Suppression of Drug Abuse in Schools Program from $26,700,000 to $26,470,000,

and by deleting Provision 1(a)

I am deleting the $230,000 legislative augmentation that would have provided funding to a school district or county office of education for the purpose of contracting with a nonprofit agency for field testing a substance abuse prevention model using athletes as role models (the Pros for Kids project) Requiring a school district or county office of education to use Proposition 98 funds to contract with a

nonprofit agency is not consistent with the intended use or spirit of the proposition and may raise legal concerns regarding such use of Proposition 98 funds.

I am deleting Provision 1(a) to conform with this action

Item 8180-101-001—For local assistance, Payment to Counties for Costs of Homicide Trials I reduce this item from $3,875,000 to $3,874,000, and delete Provision 3.

I am reducing this item by $1,000 and deleting Provision 3 because it is unnecessary The program relating to the local-match waiver procedures will sunset January 1, 1991 and I do not anticipate signing any legislation to extend that program However, even if the program were statutorily extended, it would not be appropriate to mandate the development of waiver standards when there is little likelihood that funds will be available to grant waivers.

Item 8380-001-001—For support of Department of Personnel Administration I reduce this item from $8,519,000 to $8,369,000 by reducing:

(f) 54-Benefits Administration from $3,634,000 to $3,484,000,

and by deleting Provision 1

I am deleting the $150,000 legislative augmentation to the Labor/Management Child Care Committee. The Committee was established through the collective bargaining process to oversee the allocation of funds to assist in the establishment of child care centers for state employees Any additional augmentation to the Child Care Committee should more appropriately be addressed through the collective bargaining process

Item 8550-001-191—For support of the California Horse Racing Board I reduce this item from $8,268,000 to $8,118,000 by reducing

(a) 1000000-Personal Services from $2,837,000 to $2,764,000, and

(b) 3000000-Operating Expenses and Equipment from $5,741,000 to $5,664,000,

and by deleting Provision 2.

I am deleting the $73,000 legislative augmentation which would have increased the salaries of executive staff The Department of Personnel Administration has not approved the proposed salary adjustments as is required under current law.

I am deleting the $77,000 legislative augmentation which would have provided funds for a contract to develop an outreach program to ensure adequate representation of women and minorities on the California Horse Racing Board's staff and among its personal services contractors The Board has the capability to meet its affirmative action goals within existing resources.

I am deleting Provision 2 to conform to this action

Item 8570-001-001—For support of Department of Food and Agriculture. I reduce this item from $72,260,000 to $71,260,000 by reducing

(b) 10-Pesticide Regulatory Program from $32,707,000 to $32,457,000, and

(m) Amount payable from the Agriculture Fund (Item 8570-001-111) from −$21,009,000 to −$20,759,000

I am correcting the total of the item by $1,000,000 to correspond to the Legislature's intended actions as reflected in this item's schedule

I am revising this item by $250,000 to conform to the action taken in Item 8570-001-111 on alternative pest management systems research

Item 8570-001-111—For support of Department of Food and Agriculture I reduce this item from $21,009,000 to $20,759,000

I am deleting the $250,000 legislative augmentation for research on alternative pest management systems I have been supportive of efforts to address the needs in this area; however, the Department of Food and Agriculture presently receives funding for similar research projects. In addition, most accounts within the Agriculture Fund are statutorily tied to specific programs The Legislature has increased expenditures from that account by $200,000 for the Food Safety Program, leaving the account with only a minimum reserve It is necessary to maintain a prudent reserve in this account for uncertainties which would be jeopardized by funding an additional $250,000 project from the account

I am revising the schedules in Item 8570-001-001 to conform to this action

Item 8570-101-001—For local assistance, Department of Food and Agriculture. I delete Provision 2.

I am deleting Provision 2 which was added by the Legislature to require up to $950,000 in state funds appropriated to local fairs to be used in part to employ a veterinarian at all rodeo-related activities on the fairgrounds for the purpose of treating injuries to participating animals. The Department of Food and Agriculture estimates the cost of implementing this new state mandate could be as high as $3 million annually. The identified state funding would not be sufficient to cover these costs. Additionally, the language represents a substantive change in law which can only be included in a single subject bill, not the Budget Act.

Item 8660-001-412—For support of Public Utilities Commission. I revise this item by reducing:

(a) 100000-Personal Services from $55,169,000 to $55,138,000,

(b) 300000-Operating Expenses and Equipment from $21,364,000 to $21,355,000, and

(g) Amount payable from the Public Utilities Commission Utilities Reimbursement Account, General Fund (Item 8660-001-462) from −$44,148,000 to −$44,108,000,

and by deleting Provisions 2 and 4.

I am deleting the $40,000 legislative augmentation to fund a temporary field office in San Diego for the second half of 1990-91 and the related language in Provision 4 which would restrict the availability of that augmentation. This request for funding is not needed since the main function of the San Diego office will end within the first half of 1990-91.

I am deleting Provision 2. Since existing law does not prohibit the Division of Ratepayer Advocates from challenging collective bargaining agreements, this language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act In addition, the language of this provision would adversely impact the protection afforded to ratepayers by the Public Utilities Commission.

Item 8780-001-001—For support of Commission on California State Government Organization and Economy I reduce this item from $758,000 to $708,000 by reducing:

(a) 10-Commission on California State Government Organization and Economy from $760,000 to $710,000.

I am reducing the $150,000 legislative augmentation for a study on the impact of growth management on affordable housing to $100,000. The Commission has sufficient resources to provide any additional funding above that level that may be necessary to perform such a study. Therefore, no further augmentation is provided

Item 8885-101-001—For local assistance, Commission on State Mandates I am revising this item to make a technical correction to the Budget Bill by reducing·

(4) 02 50 088 981—Lis pendens from $47,000 to $0.

This program ("Lis pendens") is one of the nineteen mandates appropriately identified in Provision 5 of this item as having a $0 appropriation and are therefore made optional or suspended for the 1990-91 fiscal year. This revision merely reflects the action the Legislature intended.

Item 9210-102-001—For local assistance, Local Government Financing. I delete this item and Provisions 1 and 2.

I am deleting the $20,000,000 legislative augmentation relating to subventions to counties.

While it is recognized that some counties may be facing financial difficulties, the state is not in the position to provide additional assistance to local government at this time. This action is necessary to protect the state's ability to maintain a prudent reserve for economic uncertainties. Furthermore, I am not convinced that a $20 million infusion of funds to counties in the manner specified in this item is the best approach to the problem The problem is due to both structural and managerial causes and requires a well thought-out, long-term solution My Administration and the Legislature will continue to work cooperatively to identify the extent of the problem and develop a viable solution

I am deleting Provisions 1 and 2 to conform to this action

SEC. 3.80—Unallocated reduction to General Fund State Operations.

This section allows the Director of Finance to reduce each General Fund appropriation for support in 1990-91 by an amount not to exceed 3 per cent of that appropriation. This action will result in a reversion to the General Fund of approximately $222 million.

SEC. 9.10—Supplemental Report of the Committee on Conference the Budget Bill. I delete this Control Section.

I am deleting Budget Act language that requires the Legislative Analyst to transmit copies of the Supplemental Report of the Committee on Conference on the Budget Bill to all agencies. This report reflects both the intent and the actions of the Legislature in enacting the Budget Act of 1990. This language is an infringement on the Executive Branch's normal budget development process and implies Gubernatorial concurrence on all statements of legislative intent or requests for studies or other actions

SEC. 12.31—Education Contingency Expenditures (Proposition 98). I revise this Control Section.

I am revising Control Section 12.31 to delete paragraph (b), which specifies the priorities for spending the Proposition 98 Reserve. The determination of expenditures from the reserve is best made toward the end of the fiscal year when remaining K-12 funding needs can be re-assessed.

"SEC. 12.31. (Proposition 98). (a) There is hereby appropriated from the General Fund a contingency expenditure of one hundred million dollars ($100,000,000) reserved for subsequent appropriation by the Legislature for deficiencies and other educational purposes in program areas which are funded under the provisions of Proposition 98 Funds appropriated by this section shall not be further appropriated prior to June 15, 1991, unless appropriated by a statute chaptered on or before July 15, 1990. No amount shall be appropriated from this section that would cause the state to exceed the minimum funding level required by Proposition 98, the Classroom Instructional Improvement and Accountability Act.

~~(b) The funds appropriated by this section shall be available in accordance with, and in the order of, the following priorities.~~

~~(1) For purposes of deficiency allocation for kindergarten and grades 1 to 12, inclusive, pursuant to Section 27.00 of this act.~~

~~(1.5) Up to two million dollars ($2,000,000) for the purposes of vocational education incentive funding pursuant to Senate Bill 1947 of the 1989-90 Regular Session. This funding shall only be available if Senate Bill 1947 is chaptered and becomes operative on or before January 1, 1991.~~

~~(2) Up to one hundred ten million dollars ($110,000,000), including amounts appropriated in other items of this act, for purposes of the program to reduce class size pursuant to Senate Bill 666 of the 1989-90 Regular Session.~~

~~(3) Up to thirty eight million one hundred twelve thousand dollars ($38,112,000) for the purpose of funding growth in enrollment in special education for the 1991-92 fiscal year calculated pursuant to Section 56728.6 for the Education Code, in augmentation of the amount appropriated for that growth by Item 6110-161-001 of the Budget Act of 1991.~~

~~(4) In support of other legislative measures, where the funding of those measures would qualify under the definition set forth in subdivision (a) of Section 41202 of the Education Code.~~"

SEC. 12.32—Proposition 98 Funding Guarantee. I am revising this section to reflect the actual level of the Proposition 98 guarantee consistent with the Constitution and court decision.

I am also revising this section to delete subparagraph (a) to conform with my action in Item 6110-196-001

The amount of funds set apart for purposes of meeting the 1990-91 Proposition 98 guarantee is.

Budget Act Item Appropriations Labeled

Proposition 98 including Section 12.31	$16,436,341,000
Appropriation in Item 6110-196-001 for the Child Development Program	215,180,000
Set Asides for Subsequent Appropriation:	
K-12 Class Size Reduction	189,006,000
K-12 Year Round Schools	27,046,000
K-12 Driver Education	21,000,000
K-12 Assessment System	12,000,000
K-12 School Restructuring	6,000,000
CCC Program Improvement, Phase II	8,418,000
Other State Agencies	411,000
Amount for Augmentation of Contingency Reserve	197,870,000
Total	$17,113,272,000

"SEC. 12.32. ~~(a) All appropriation items identified as "(Proposition 98)" are for the purposes of meeting the funding guarantee for education programs pursuant to Section 8 of Article XVI of the California Constitution.~~

(b) It is the intent of the Legislature that appropriations which are subject to Article XVI of the California Constitution be designated with the wording "Proposition 98." In the event these appropriations are not so designated, they may be designated as such by the Department of Finance where that designation is consistent with legislative intent

(c) Pursuant to the Proposition 98 funding requirements established in Chapter 2 (commencing with Section 41200) of Part 24 of the Education Code, the total appropriations for Proposition 98 for fiscal year 1990-91 are seventeen billion ~~two hundred eighty-three~~ *one hundred thirteen* million ~~four~~ *two* hundred ~~five~~ *seventy-two* thousand dollars (~~$17,283,405,000~~ *$17,113,272,000*), or ~~42.395~~ *41 977* percent of total General Fund revenues and transfers subject to the state appropriations limit. General Fund revenues set aside for school districts and other state agencies which provide direct elementary and secondary level education, as defined in Section 41302 5 of the Education Code, are fifteen billion ~~five~~ *three* hundred ~~sixty-three~~ *ninety-nine* million ~~fourty-nine~~ *three hundred eighty-five* thousand dollars (~~$15,563,049,000~~ *$15,399,385,000*), or ~~38 175~~ *37 773* percent of total General Fund revenues and transfers subject to the state appropriations limit. General Fund revenues set aside for the California Community Colleges, pursuant to the Proposition 98 funding requirements, are one billion seven hundred ~~twenty~~ *thirteen* million ~~three~~ *eight* hundred ~~fifty-six~~ *eighty-seven* thousand dollars (~~$1,720,356,000~~ *$1,713,887,000*), or ~~4.220~~ *4.204* percent of total General Fund revenues and transfers subject to the state appropriations limit."

SEC. 22 00—Set-aside Appropriation for Future GAIN Expenditures I am revising Control Section 22 00 by deleting paragraph (f)

This provision would restrict the Executive Branch's authority to manage its programs in ways that may prove fiscally beneficial to the state and would result in increased costs. This action conforms to my action in Item 5180-158-001

SEC 23 50—Immigration Reform and Control Act (IRCA) I am revising this Control Section by deleting Provision (zd).

I am deleting Provision (zd) which would appropriate up to $16,000,000 for the purposes of Adult Education in the event that additional revenue is provided by the Federal Government This provision constitutes an item of appropriation which I cannot approve If additional federal funds are allocated to the state, they should be appropriated to the various programs through a process which provides a balance among the competing priorities.

SEC. 27.50—Consumer Affairs Reporting Requirements. I delete this Control Section.

I am deleting Section 27.50 which requires specified agencies, primarily within the Department of Consumer Affairs, to provide written notification 30 days prior to the expenditure of funds to pursue or defend a lawsuit which is not directly related to consumer protection It would restrict the ability of affected agencies to seek the timely advice and representation of counsel to defend against lawsuits regarding

their administrative and business practices. In addition, the Control Section does not specify what would constitute approval of expenditures on litigation subsequent to the notification. This is a substantive change in law that is an infringement on the separation of powers in that it usurps Executive Branch authority to effectively administer state government.

SEC. 33.50—Contingency Funding for the Office of Child Abuse Prevention I delete this Control Section.

Control Section 33.50 would require the transfer of $10,300,000 from the Restitution Fund to Item 5180-151-001 (f) to fund the Office of Child Abuse Prevention in the event of any veto action in Item 5180-151-001 (f)

I am taking this action because funding the Child Abuse Prevention Training Act (CAPTA) Program is an inappropriate use of the Restitution Fund Further, I am concerned that this expenditure would jeopardize the solvency of the Restitution Fund, thereby negatively affecting my commitment to compensate victims of crime

With the above deletions, revisions and reductions, I hereby approve Senate Bill No. 899.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1.00. This act shall be known and may be cited as the "Budget Act of 1990."

SEC. 1.50. (a) In accordance with Section 13338 of the Government Code, as added by Chapter 1284, Statutes of 1978 (AB 3322), and as amended by Chapter 1286, Statutes of 1984 (AB 3372), it is the intent of the Legislature that this act utilize a coding scheme compatible with the Governor's Budget and the records of the State Controller, and provide for the appropriation of federal funds received by the state and deposited in the State Treasury.

(b) Essentially, the format and style are as follows:

(1) Appropriation item numbers have a code which is common to all the state's fiscal systems. The meaning of this common coded item number is as follows:

2720—Organization Code (this code represents the California Highway Patrol)

001—Reference Code (first appropriation for a particular fund for support of each department)

044—Fund Code (Motor Vehicle Account, State Transportation Fund)

(2) Appropriation items are organized in organization code order as reflected in the Governor's Budget.

(3) All the appropriation items, reappropriation items, and reversion items, if any, for each department or entity are adjacent to one another.

(4) Federal funds received by the state and deposited in the State Treasury are appropriated in separate items.

(c) The Department of Finance may authorize revisions to the codes used in this act in order to provide compatibility between the codes used in this act and those used in the Governor's Budget and in the records of the State Controller.

(d) Notwithstanding any other provisions of this act, the Department of Finance may revise the schedule of any appropriation made in this act where the revision is of a technical nature and is consistent with legislative intent. These revisions may include, but shall not be limited to, the substitution of category for program or program for category limitations, the proper categorization of allocated administration costs and cost recoveries, the distribution of any unallocated amounts within an appropriation and the adjustment of schedules to facilitate departmental accounting operations including the elimination of categories providing for amounts payable from other items or other appropriations and the distribution of unscheduled amounts to programs or categories. These revisions shall include a certification that the revisions comply with the intent and limitation of expenditures as appropriated by the Legislature.

(e) Notwithstanding any other provision of this act, when the Department of Finance, pursuant to subdivision (d), approves the schedule or revision of any appropriation relating to the elimination of amounts payable, the language authorizing the transfer shall also be eliminated.

SEC. 2.00. (a) The following sums of money, or so much thereof as may be necessary unless otherwise provided herein, are hereby appropriated for the use and support of the State of California for the 1990–91 fiscal year beginning July 1, 1990, and ending June 30, 1991. All of these appropriations, unless otherwise provided herein, shall be paid out of the General Fund in the State Treasury.

(b) Appropriations and reappropriations for capital outlay, unless otherwise provided herein, shall be available for expenditure during the 1990–91, 1991–92 and 1992–93 fiscal years, except that appropriations and reappropriations for studies, planning, working drawings, or minor capital outlay, except as provided herein, shall be available for expenditure only during the 1990–91 fiscal year. In addition, the balance of every appropriation made in this act which contains funding for construction that has not been allocated, through fund transfer or approval to proceed to bid, by the Department of Finance on or before June 30, 1991, except as provided herein, shall revert as of that date to the fund from which the appropriation was made.

(c) Whenever by constitutional or statutory provision the revenues or receipts of any institution, department, board, bureau, commission, officer, employee, or other agency, or any moneys in any

special fund created by law therefor, are to be used for salaries, support or any proper purpose, expenditures shall be made therefrom for any such purposes, to the extent only of the amount herein appropriated, unless otherwise stated herein, or authorized pursuant to Section 11006 of the Government Code.

(d) Appropriations for purposes not otherwise provided for herein which have been heretofore made by any existing constitutional or statutory provision shall continue to be governed thereby.

LEGISLATIVE/JUDICIAL/EXECUTIVE

Legislative

Item		Amount
0110-001-001—For support of Senate		$69,043,000
Schedule:		
(a) 101001-Salaries of Senators	2,178,000	
(b) 317295-Mileage	6,000	
(c) 317292-Expenses	848,000	
(d) 500004-Contingent Expenses	58,380,000	
(e) 317296-Automotive Expenses	1,002,000	
(f) Joint Expenses	6,629,000	

Provisions:

1. The funds appropriated in Schedule (d) are for contingent expenses of the Senate, including personal services for officers, clerks, and all other employees, and legislative committees thereof composed in whole or in part of Members of the Senate, and for support of joint expenses of the Legislature, to be transferred by the State Controller to the Senate Contingent Fund.
2. The funds appropriated in Schedule (e) are for contingent expenses of the Senate relating to the purchase, maintenance, repair, insurance, and other costs of operating automobiles for the use of Members of the Senate, to be transferred by the State Controller to the Senate Contingent Fund.
3. The funds appropriated in Schedule (f) may be transferred in support of joint services and joint house operations provided for in Article 7 (commencing with Section 9140) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code which are funded under Item 0130-021-001 by the Senate Rules Committee.
4. The funds appropriated by Schedules (a), (b), (c), (e), and (f) may be transferred to the Senate Contingent Fund.

Item		Amount
0120-011-001—For support of Assembly		96,647,000
Schedule:		
(a) 101001-Salaries of Assemblymembers	4,240,000	
(b) 317295-Mileage	8,000	
(c) 317292-Expenses	1,596,000	
(d) 500004-Contingent Expenses	81,476,000	
(e) 317296-Automotive Expenses	623,000	
(f) Joint Expenses	8,704,000	

Provisions:

1. The funds appropriated in Schedule (d) are for contingent expenses of the Assembly, including personal services for officers, clerks, and all other employees, and legislative committees thereof composed in whole or in part of Members of the Assembly, and for support of joint expenses of the Legislature, to be transferred by the State Controller to the Assembly Contingent Fund.
2. The funds appropriated in Schedule (e) are for contingent expenses of the Assembly relating to the lease, maintenance, repair, insurance, and other costs of operating automobiles for the use of Members of the Assembly, to be transferred by the State Controller to the Assembly Contingent Fund.
3. The funds appropriated in Schedule (f) may be transferred in support of joint services and joint house operations provided for in Article 7 (commencing with Section 9140) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code which are funded under Item 0130-021-001 by the Assembly Rules Committee.
4. The funds appropriated by Schedules (a), (b), (c), (e), and (f) may be transferred to the Assembly Contingent Fund.

0130-021-001—For support of the joint expenses of the Legislature		0
Schedule:		
(a) 317292-Expenses of Joint Committees	7,700,000	
(b) Transferred from Item 0110-001-001	−3,850,000	
(c) Transferred from Item 0120-011-001	−3,850,000	

Item Amount

Provisions:

1. The funds appropriated in category (a) are for the expenses of joint committees and their members and for any charges, expenses, or claims they may incur, available without regard to fiscal years, to be paid on certification of chairpersons of the committees to which allocations have been made by statute or concurrent reso-lution or by resolution of the Joint Rules Committee.
2. Funds shown in categories (b) and (c) may be transferred from the Assembly Contingent Fund, by the Assembly Rules Committee, and the Senate Contingent Fund, by the Senate Rules Committee.

0155-001-001—For support of Auditor General, for transfer to Auditor General Fund 10,729,000

Schedule:

(a) Support 10,729,000

Provisions:

1. Notwithstanding any provisions of Section 2.00 of this act, this appropriation shall be available for encumbrances without regard to fiscal year.
2. The Auditor General and his or her employees shall be deemed to be legislative employees for the purposes of Section 20364 of the Government Code.
3. The Auditor General, in consultation with the Departments of Finance and Education, the Legislative Analyst, staff of the appropriate legislative policy and fiscal committees, and knowledgeable local officials, shall examine a sample of 20 recent redevelopment project areas and determine the extent to which school districts receive property tax increment revenues pursuant to Section 33401 and 33676 of the Health and Safety Code and the purposes for which school districts use those revenues. The Auditor General shall submit a report of findings based on this examination to the Joint Legislative Budget Committee and the legislative policy and fiscal committees by December 31,1990.

0160-001-001—For support of Legislative Counsel Bureau 42,545,000

Schedule:

(a) Support 42,676,000
(b) Reimbursements ..... −131,000

Item		Amount
Judicial		
0250-001-001—For support of Judiciary		139,477,000
Schedule:		
(a) 10-Supreme Court	15,473,000	
(b) 20-Courts of Appeal	96,009,000	
(c) 30-Judicial Council	27,196,000	
(d) 40-Commission on Judicial Performance	1,211,000	
(e) Reimbursements	−293,000	
(f) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0250-001-044)	−119,000	
Provisions:		
1. Notwithstanding Section 6.50 of this act, the funds appropriated or scheduled in this item may be allocated or reallocated among categories by order of the Judicial Council; however, any allocation or reallocation by the Judicial Council shall be reported to the Director of Finance.		
2. The Judicial Council shall notify the chairpersons of the legislative fiscal committees and of the Joint Legislative Budget Committee of any and all of the following expenditures of the Supreme Court, the courts of appeal, the Judicial Council, and the Commission on Judicial Performance within 30 days of implementation:		
(a) Leases with a value of $100,000 or more in one or multiple years.		
(b) Contracts with a value of $50,000 or more in one or multiple years.		
(c) Initiation of new projects or reallocation of existing appropriations which vary from the expenditures approved by the Legislature.		
0250-001-044—For support of Judiciary, for payment to Item 0250-001-001, payable from the Motor Vehicle Account, State Transportation Fund		119,000
0250-101-001—For reimbursement of any county, in whose superior court a judge of the municipal court of another county is assigned to sit and which is required by subdivision (b) of Section 68540 of the Government Code to reimburse the other county from which such assignment is made, of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government Code) for that period of time while serving on as-		

Item	Amount
signment in its superior court; and for payment to any county, in whose superior court a judge of its municipal court is assigned to sit, of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government Code) for that period of time while serving on assignment in its superior court; and for payment to any county of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government Code) for that period of time its municipal court judge serves on assignment on an appellate court; and for payment to any county of the transportation expenses of a judge assigned to sit on a municipal court to replace an absent municipal court judge who has been assigned to sit on a superior court or an appellate court, Program 30, Judicial Council, for payment by the State Controller.....	10,000
0390-001-001—For support, for transfer by the State Controller to the Judges' Retirement Fund, for Supreme Court and appellate court justices.....	2,158,000
Provisions:	
1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between Item 0390-001-001 and Item 0390-101-001.	
0390-101-001—For local assistance, for transfer by the State Controller to the Judges' Retirement Fund for superior court and municipal court judges.....	26,077,000
Provisions:	
1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between Item 0390-001-001 and Item 0390-101-001.	
0420-101-001—For local assistance, Salaries of Superior Court Judges, for the state's share of salaries and health, dental and vision benefits of judges of superior courts, as provided by Section 68206 of the Government Code.....	69,189,000
Schedule:	
(a) State share and advances per Section 68206 of the Government Code for Superior Court judges.. 70,379,000	
(b) Reimbursements..... −1,190,000	

Item		Amount
0450-101-001—For local assistance, State Block Grants for Trial Court Funding, for implementation of the Trial Court Funding Program as authorized in Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code.		398,129,000
Schedule:		
(a) 10-Block Grants for Trial Courts	340,727,000	
(b) 20-Block Grant Supplement for New Judgeships	5,758,000	
(c) 30-Block Grant Supplement for Salaries of Municipal Court Judges	46,467,000	
(d) 40-Block Grant Supplement for Salaries of Justice Court Judges	5,177,000	
Provisions:		
1. The maximum transfer amounts specified in subdivision (b) of Section 6.50 of this act shall not apply to this item.		
0460-001-001—For support, for state's share of cost for membership in National Center for State Courts, Judicial Council of California		254,000

Executive

0500-001-001—For support of Governor and of Governor's office		8,448,000
Schedule:		
(a) Support	6,344,000	
(b) Governor's Residence (Support)	35,000	
(c) Governor's Residence (Rental)	50,000	
(d) Special Contingent Expenses	40,000	
(e) Overseas Offices	1,979,000	
Provisions:		
1. This appropriation is exempt from the provisions of Sections 925.6, 12410, and 13320 of the Government Code.		
0510-001-001—For support of Secretary for State and Consumer Services		856,000
Schedule:		
(a) Support	870,000	
(b) Reimbursements	−14,000	
Provisions:		
1. The Secretary of the State and Consumer Services Agency shall, on or before September 30, 1990, develop and implement within the Department of General Services a one-stop shop for certification of women owned business en-		

Item			Amount
terprises and minority owned business enterprises consistent with the purposes of Chapter 61 of the Statutes of 1988. On or before October 15, 1990, the secretary shall submit to the Chair of the Joint Legislative Budget Committee and the chairs of the legislative fiscal committees a report which details the steps taken to implement this provision.			
0520-001-001—For support of Secretary for Business, Transportation and Housing, for payment to Item 0520-001-044			428,000
0520-001-044—For support of Secretary for Business, Transportation and Housing, payable from the Motor Vehicle Account, State Transportation Fund			657,000
Schedule:			
(a) 10-Administration of Business, Transportation and Housing Agency		1,622,000	
(b) Reimbursements		−537,000	
(c) Amount payable from the General Fund (Item 0520-001-001)		−428,000	
0530-001-001—For support of Secretary for Health and Welfare			1,749,000
Schedule:			
(a) Support		4,698,000	
(b) Reimbursements		−414,000	
(c) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)		−2,535,000	
Provisions:			
1. $200,000 of the amount appropriated in this item is intended for the support of the Office of Minority Health Affairs.			
0540-001-001—For support of Secretary for Resources.			1,425,000
Schedule:			
(a) 10-Administration of Resources Agency		1,795,000	
(b) Reimbursements		−45,000	
(c) Amount payable from the California Environmental License Plate Fund (Item 0540-001-140)		−75,000	
(d) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 0540-001-235)		−250,000	

Item			Amount
0540-001-140—For support of Secretary for Resources, for payment to Item 0540-001-001, payable from the California Environmental License Plate Fund			75,000
0540-001-235—For support of Secretary for Resources, for payment to Item 0540-001-001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund			250,000
0550-001-001—For support of the Secretary for Youth and Adult Correctional Agency, Program 10—Correctional Programs			978,000
0580-001-001—For support of Office of California-Mexico Affairs, Program 10			289,000
0585-001-001—For transfer by the State Controller from the General Fund to the California State World Trade Commission Fund for support of California State World Trade Commission			2,062,000
0585-001-147—For transfer by the Controller from the Unitary Fund to the California Export Finance Fund for support of the California State World Trade Commission			1,000,000
0585-001-981—For support of California State World Trade Commission, payable from the California State World Trade Commission Fund			2,062,000
Schedule:			
(a) 100000-Personal Services		1,128,000	
(b) 300000-Operating Expenses and Equipment		934,000	
Provisions:			
1. The World Trade Commission shall report quarterly to the fiscal committees of the Legislature, beginning October 1, 1990, regarding the development, implementation, and accomplishments of the Export Finance Targeted Marketing Program for minority and women business enterprises. The report shall include a description of program outreach to minority and women business enterprises, efforts to increase access to program information and technical assistance, and a methodology for determining program achievements.			
0650-001-001—For support of Office of Planning and Research			4,326,000
Schedule:			
(a) 11-State Planning and Policy Development		5,158,000	
(b) Reimbursements		−107,000	

Item		Amount
(c) Amount payable from the Property Acquisition Law Account (Item 0650-001-002)	−430,000	
(d) Amount payable from the Petroleum Violation Escrow Account (Item 0650-001-853)	−61,000	
(e) Amount payable from the Federal Trust Fund (Item 0650-001-890)	−234,000	
0650-001-002—For support of Office of Planning and Research, for payment to Item 0650-001-001, payable from the Property Acquisition Law Account		430,000
0650-001-853—For support of Office of Planning and Research, for payment to Item 0650-001-001, payable from the Petroleum Violation Escrow Account		61,000
0650-001-890—For support of Office of Planning and Research, for payment to Item 0650-001-001, payable from the Federal Trust Fund		234,000
0690-001-001—For support of Office of Emergency Services, California Emergency Council and Advisory Committees		19,371,000
Schedule:		
(a) 15-Mutual Aid Response	11,900,000	
(b) 35-Plans and Preparedness	14,983,000	
(c) 45-Disaster Assistance	2,392,000	
(d) 55.01-Administration and Executive	1,999,000	
(e) 55.02-Distributed Administration and Executive	−1,999,000	
(f) Reimbursements	−1,070,000	
(g) Amount payable from the Hazardous Waste Control Account, General Fund (Item 0690-001-014)	−2,334,000	
(h) Amount payable from the Nuclear Planning Assessment Special Account (Item 0690-001-029)	−1,029,000	
(i) Amount payable from the Federal Trust Fund (Item 0690-001-890)	−4,754,000	
(j) Amount payable from the Office of Emergency Services Disaster Administration Support Account (Section 8690.4 of the Government Code)	−717,000	

Item Amount

Provisions:

1. Funds appropriated by this item may be reduced by the Director of Finance, after giving notice to the Chairperson of the Joint Legislative Budget Committee, by the amount of federal funds made available for the purposes of this item in excess of the federal funds scheduled in Item 0690-001-890.
2. The office shall charge tuition for all training offered through the California Specialized Training Institute.
3. The funds deposited in the Hazardous Waste Control Account may be expended by the Department of Health Services, upon appropriation by the Legislature, for the purposes listed in Section 25174 of the Health and Safety Code as added by Chapter 1506 of the Statutes of 1986, and for the Office of Emergency Services for support of the state's program to implement Title III of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.).
4. Of the funds appropriated in this item, $866,000 shall be transferred to the Office of Emergency Services Disaster Administration Support Account, Natural Disaster Assistance Fund.
7. A portion of the funds appropriated in this item shall be used to site an office in Santa Barbara County as part of the proposed expansion of the Southern California Earthquake Preparedness Project.
9. Of the amount appropriated in this item, $216,000 is available for the purposes of a loan to the City and County of San Francisco for modular units for interim use by the City and County of San Francisco Emergency Command Center. Notwithstanding any other provision of law, the City and County of San Francisco shall repay the loan in full no later than 10 years from the date the loan is received. The loan shall be repaid with interest calculated at the rate received by funds in the Pooled Money Investment Account.

Item	Amount
0690-001-014—For support of Office of Emergency Services, California Emergency Council and Advisory Committee and for support of Superfund Reauthorization Act, Title III, Emergency Planning and Community Right-to-Know Act of 1986, for payment to Item 0690-001-001, payable from the Hazardous Waste Control Account, General Fund	2,334,000
0690-001-029—For support of Office of Emergency Services, California Emergency Council and Advisory Committee, for payment to Item 0690-001-001, payable from the Nuclear Planning Assessment Special Account	1,029,000
0690-001-890—For support of Office of Emergency Services, California Emergency Council and Advisory Committee, for payment to Item 0690-001-001, payable from the Federal Trust Fund	4,754,000
Provisions:	
1. No funds, either state or federal, shall be expended by any state agency for developing or implementing "crisis relocation planning," or for any planning whose primary or exclusive purpose is to effect a mass evacuation of California's civilian population, in the event of the threat of a nuclear war.	
If, as a result of this section, the Federal Emergency Management Agency (FEMA) withholds other federal funds whose purposes are the support of California's emergency planning and preparedness for civilian and natural disasters, and if the court of original jurisdiction upholds the legality of such action by FEMA, then the implementation of this section shall be suspended until judicial appeals have been exhausted or Congress prohibits this action by FEMA.	
0690-101-001—For local assistance, Office of Emergency Services, for transfer to the Public Facilities and Local Agency Response Account, Natural Disaster Assistance Fund	4,750,000
0690-101-029—For local assistance, Office of Emergency Services, Program 35—Plans and Preparedness, payable from the Nuclear Planning Assessment Special Account	1,868,000
0690-101-890—For local assistance, Office of Emergency Services, Program 45—Disaster Assistance, payable from the Federal Trust Fund	96,413,000

Item			Amount
Provisions:			
1. Any federal funds that may become available in addition to the funds appropriated by this item for Program 45—Disaster Assistance are exempt from Section 28.00 of this act.			
0695-001-372—Notwithstanding any other provision of law, "disbursements", as used in Section 16419 of the Government Code, includes transfers to the General Fund to compensate for reduced tax revenue, pursuant to Revenue and Taxation Code Sections 17207 and 24347.5, resulting from the Loma Prieta Earthquake of October 17, 1989, and related aftershocks and other casualties. The State Controller shall make the necessary transfers to the General Fund for this purpose upon the direction of the Department of Finance as of June 30, 1990, and upon further direction of the Department of Finance during the 1990–91 fiscal year.			
0720-001-001—For painting of Governor's portrait, Department of General Services			20,000
0730-001-001—For expenses incurred by the Governor-elect and outgoing Governor, for expenditure by the Department of Finance			550,000
Schedule:			
(a) Governor-elect, as provided in Section 12015 of the Government Code		450,000	
(b) Outgoing Governor, to be available for the period specified, as provided in Section 12015.5 of the Government Code		100,000	
Provisions:			
1. Funds scheduled in category (a) shall be available from November 7, 1990 to January 6, 1991, and expenditures of funds shall be subject to the approval of the Governor-elect.			
0750-001-001—For support of Office of the Lieutenant Governor			1,597,000
Schedule:			
(a) 10-General Activities		1,667,000	
(b) Reimbursements		−70,000	
0820-001-001—For support of Department of Justice			187,090,000
Schedule:			
(a) 11.01-Executive-Administration		55,668,000	
(b) 11.02-Distributed Executive-Administration		−55,668,000	
(c) 25-Executive Programs		5,903,000	

Item		Amount
(d)	30-Civil Law	40,498,000
(e)	40-Criminal Law	48,084,000
(f)	45-Public Rights	22,870,000
(g)	50-Law Enforcement	181,030,000
(h)	Reimbursements	−50,560,000
(i)	Amount payable from the Attorney General's Antitrust Account, General Fund (Item 0820-001-012)	−472,000
(j)	Amount payable from the Hazardous Waste Control Account, General Fund (Item 0820-001-014)	−1,183,000
(k)	Amount payable from the Fingerprint Fees Account, General Fund (Item 0820-001-017)	−18,210,000
(m)	Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0820-001-044)	−16,685,000
(n)	Amount payable from the Hazardous Substance Account, General Fund (Item 0820-001-455)	−1,685,000
(o)	Amount payable from the Dealers' Record of Sale Special Account, General Fund (Item 0820-001-460)	−6,972,000
(p)	Amount payable from the Narcotics Assistance and Relinquishment by Criminal Offender Fund (NARCO) (Item 0820-001-469)	−511,000
(q)	Amount payable from the Gaming Registration Account, General Fund (Item 0820-001-477)	−302,000
(r)	Amount payable from the Federal Trust Fund (Item 0820-001-890)	−9,708,000
(s)	Amount payable from the Federal Forfeiture Account, Special Deposit Fund (Item 0820-001-942)	−2,114,000
(t)	Amount payable from the State Forfeiture Account, Special Deposit Fund (Item 0820-011-942)	−2,893,000

Provisions:

1. The Attorney General shall submit to the Legislature, the Department of Finance, and the Governor the quarterly and annual reports which he or she submits to the federal government on the activities of the Medi-Cal Fraud Unit.

Item	Amount
2. Notwithstanding any other provision of law, the Department of Justice may purchase vehicles of any type or class, which in the judgment of the Attorney General or his or her designee are necessary to the performance of the investigatory and enforcement responsibilities of the Department of Justice, from the funds appropriated for that purpose in this item.	
3. Any funds received by the Department of Justice as reimbursements for legal services provided by the Civil Law Program in excess of $23,679,000, and by the Public Rights Program in excess of $3,632,000, plus amounts for employee compensation adjustments, shall revert to the unappropriated surplus of the General Fund unless the Director of Finance authorizes the expenditure of the reimbursements and notification of the additional expenditure authority is provided to the Legislature pursuant to Section 28.00.	
0820-001-012—For support of Department of Justice, for payment to Item 0820-001-001, payable from the Attorney General's Antitrust Account, General Fund	472,000
0820-001-014—For support of Department of Justice, for payment to Item 0820-001-001, payable from the Hazardous Waste Control Account, General Fund	1,183,000
0820-001-017—For support of Department of Justice, for payment to Item 0820-001-001, payable from the Fingerprint Fees Account, General Fund, pursuant to subdivision (e) of Section 11105 of the Penal Code	18,210,000
0820-001-044—For support of Department of Justice, for payment to Item 0820-001-001, payable from the Motor Vehicle Account, State Transportation Fund	16,685,000
0820-001-455—For support of the Department of Justice, for payment to Item 0820-001-001, payable from the Hazardous Substance Account, General Fund	1,685,000
0820-001-460—For support of Department of Justice, for payment to Item 0820-001-001, payable from the Dealers' Record of Sale Special Account, General Fund	6,972,000

Item		Amount
Provisions:		
1. Dealer Record of Sale fees collected pursuant to the state law for the registration of assault weapons shall not exceed $20 per registrant.		
0820-001-469—For support of Department of Justice, for payment to Item 0820-001-001, payable from the Narcotics Assistance and Relinquishment by Criminal Offender Fund (NARCO), General Fund		511,000
0820-001-477—For support of Department of Justice, for payment to Item 0820-001-001, payable from the Gaming Registration Account, General Fund.		302,000
0820-001-890—For support of Department of Justice for payment to Item 0820-001-001, payable from the Federal Trust Fund		9,708,000
0820-001-942—For support of Department of Justice for payment to Item 0820-001-001, payable from the Federal Forfeiture Account, Special Deposit Fund ..		2,114,000
0820-011-012—For transfer to the General Fund, payable from the first $600,000 in revenues in the Attorney General's Antitrust Account, General Fund.....		(600,000)
0820-011-942—For support of Department of Justice for payment to Item 0820-001-001, payable from the State Forfeiture Account, Special Deposit Fund...		2,893,000
0820-101-001—For local assistance, Department of Justice.....		617,000
Schedule:		
(a) 25-Executive Programs	467,000	
(b) 50-Law Enforcement.....	150,000	
Provisions:		
1. The funds appropriated in Category (b) are for allocation by the State Controller to counties with a population under 1,250,000 to reimburse specified costs associated with the Clandestine Laboratory Enforcement Program.		
0840-001-001—For support of State Controller.....		72,659,000
Schedule:		
(a) 100000-Personal Services.....	63,501,990	
(b) 300000-Operating Expenses and Equipment.....	40,069,010	
(c) Reimbursements.....	−25,132,000	
(e) Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 0840-001-061).....	−2,583,000	

Item		Amount
(f)	Amount payable from the State School Building Lease-Purchase Fund (Item 0840-001-344)	−534,000
(g)	Amount payable from the State School Building Aid Fund (Item 0840-001-739)	−114,000
(h)	Amount payable from the Federal Trust Fund (Item 0840-001-890) ..	−1,774,000
(i)	Amount payable from the Assessment Fund (Item 0840-001-903) ..	−614,000
(j)	Amount payable from nongovernmental cost funds, Retail Sales Tax Fund (Item 0840-001-988)	−161,000

Provisions:

1. The appropriation made by this item shall be in lieu of any Cigarette Tax Fund allocation made pursuant to subdivision (b) of Section 30462 of the Revenue and Taxation Code during the 1990–91 fiscal year, and no funds shall be allocated to the State Controller pursuant to Section 30462 during the 1990–91 fiscal year.
2. The appropriation made by this item shall be in lieu of the appropriation in Section 1564 of the Code of Civil Procedure for all costs, expenses, or obligations connected with the administration of the Unclaimed Property Law, with the exception of payment of owners' or holders' claims pursuant to Section 1540, 1542, 1560, or 1561 of that code.
3. To the extent that federal funds are received by the State Controller for audits in categories (a) and (b) covered by the joint cooperative audit agreement between the United States Department of the Interior Mineral Management Services Division and the State Controller's Office, pursuant to the terms of the 1982 Mineral Act, exceed $364,000, these excess federal funds shall be utilized to reduce the General Fund participation in this program.

   General Fund moneys which are not needed because of the use of these federal funds shall not be expended by the State Controller.
4. 1.9 personnel years in the Mandate Claims Unit may only be used to develop criteria to automate the mandated claims process. This unit shall notify the Department of Finance and the Joint Legislative Budget Committee of the

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progress of the automation project on or before September 15, 1990 and February 15, 1991.	
5. It is the intent of the Legislature that the Unclaimed Property program be fully supported from fees collected from beneficiaries authorized by legislation enacted at the 1989–90 Regular Session.	
0840-001-061—For support of State Controller, for payment to Item 0840-001-001, payable from the Motor Vehicle Fuel Account, Transportation Tax Fund	2,583,000
0840-001-344—For support of State Controller, for payment to Item 0840-001-001, payable from the State School Building Lease-Purchase Fund	534,000
0840-001-739—For support of State Controller, for payment to Item 0840-001-001, payable from the State School Building Aid Fund	114,000
0840-001-890—For support of State Controller, for payment to Item 0840-001-001, payable from the Federal Trust Fund	1,774,000
0840-001-903—For support of State Controller, for payment to Item 0840-001-001, payable from the Assessment Fund	614,000
0840-001-988—For support of State Controller, for payment to Item 0840-001-001, payable from nongovernmental cost funds (Retail Sales Tax Fund)	161,000
0860-001-001—For support of State Board of Equalization	113,585,000
Schedule:	
(a) 100000-Personal Services 149,014,000	
(b) 300000-Operating Expenses and Equipment 39,956,000	
(c) Reimbursements ..... −54,759,000	
(d) Amount payable from the Hazardous Waste Control Account, General Fund (Item 0860-001-014) ..... −3,365,000	
(e) Amount payable from the State Emergency Telephone Number Special Account, General Fund (Item 0860-001-022) ..... −475,000	
(f) Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 0860-001-061) ..... −5,293,000	

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(g)	Amount payable from the Cigarette Tax Fund (Item 0860-001-086)	−7,551,000
(h)	Amount payable from the Cigarette and Tobacco Products Surtax Fund (Item 0860-001-230)	−463,000
(i)	Amount payable from the Integrated Waste Management Account, Solid Waste Management Fund (Item 0860-001-387)	−138,000
(j)	Amount payable from the Solid Waste Disposal Site and Maintenance Account, General Fund (Item 0860-001-435)	−236,000
(k)	Amount payable from the Underground Storage Tank Clean Up Fund, General Fund (Item 0860-001-439)	−241,000
(*l*)	Amount payable from the Hazardous Substances Account, General Fund (Item 0860-001-455)	−354,000
(m)	Amount payable from the Energy Resources Programs Account, General Fund (Item 0860-001-465)	−84,000
(n)	Amount payable from the Consumer Affairs Fund (Item 0860-001-702)	−101,000
(o)	Amount payable from the Timber Tax Fund (Item 0860-001-965)	−2,325,000

Provisions:

1. Of the $7,551,000 appropriated from the Cigarette Tax Fund, $1,844,000 shall be allocated for funding 50 percent of the direct cost of the County Surveys activity and $5,707,000 shall be allocated for funding the State-Assessed Property Program, other than the Private Railroad Car Tax activity.

   The State Controller shall deduct the amount appropriated in Item 0860-001-086 from the amount allocated to cities and counties pursuant to Sections 30462 and 30463 of the Revenue and Taxation Code.
2. The Director of Finance shall adjust the amount appropriated by this item by the amount of estimated total charges levied pursuant to Section 7204.3 of the Revenue and Taxation Code, when

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that amount is either in excess of or less than $31,093,000, and the amount of estimated total charges levied pursuant to Section 7273 of the Revenue and Taxation Code, when that amount is either in excess of or less than $23,128,000.	
0860-001-014—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Hazardous Waste Control Account, General Fund	3,365,000
0860-001-022—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the State Emergency Telephone Number Special Account, General Fund	475,000
0860-001-061—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Motor Vehicle Fuel Account, Transportation Tax Fund	5,293,000
0860-001-086—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Cigarette Tax Fund	7,551,000
0860-001-230—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Cigarette and Tobacco Products Surtax Fund	463,000
0860-001-387—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Integrated Waste Management Account, Solid Waste Management Fund	138,000
0860-001-435—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Solid Waste Disposal Site and Maintenance Account, General Fund	236,000
0860-001-439—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Underground Storage Tank Cleanup Fund, General Fund	241,000
0860-001-455—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Hazardous Substances Account, General Fund	354,000
0860-001-465—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Energy Resources Programs Account, General Fund	84,000
0860-001-702—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Consumer Affairs Fund	101,000

Item		Amount
Provisions:		
1. Notwithstanding any other provision of law, the rents collected from tenants in the Consumer Affairs Building, deposited in the Consumer Affairs Fund, and appropriated in this item shall be used for the relocation of the Board of Equalization from the Consumer Affairs Building.		
0860-001-965—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Timber Tax Fund		2,325,000
0890-001-001—For support of Secretary of State		24,149,000
Schedule:		
(a) 100000-Personal Services	13,757,000	
(b) 300000-Operating Expenses and Equipment	9,097,000	
(c) Special Item of Expense Election Related Costs	4,242,000	
(d) Reimbursements	−2,947,000	
Provisions:		
1. Up to $100,000 in reimbursements received by the Secretary of State during the 1990–91 fiscal year shall be used for the purpose of contracting for an independent study of its Corporate Filing Automation Project, consistent with the following subdivisions:		
(a) The Legislative Analyst's Office (LAO) shall be responsible for managing the contract, including the review of submitted proposals and bids and the selection of a contractor to conduct the study. For the purposes of this subdivision, the Controller shall transfer $100,000 from Item 0890-001-001 to Item 0130-021-001 as of July 1, 1990, and up to $10,000 of the amount thus transferred may be used by the LAO to administer the contract.		
(b) The Office of Information Technology shall be responsible for review and final approval of the scope of the study as embodied in the contents of the Secretary of State's request for proposal.		
2. The Secretary of State shall fund, within existing resources, the costs of the Visually Impaired Voter Assistance Advisory Board established pursuant to Section 228 of the Elections Code.		
3. Effective July 1, 1990, the Secretary of State shall charge a fee, consistent with Section 12197.1 of		

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the Government Code, which is sufficient to cover all costs of commissioning notaries public and the enforcement of laws governing notaries public.		
0950-001-001—For support of State Treasurer		6,757,000
Schedule:		
(a) 100000-Personal Services	9,634,000	
(b) 300000-Operating Expenses and Equipment	5,002,000	
(c) Reimbursements	−7,879,000	
0950-301-036—For capital outlay, State Treasurer, payable from the Special Account for Capital Outlay		109,000
Schedule:		
(1) 90.10.001-Sacramento Unruh Building: Computer Site Preparation—Preliminary plans and working drawings	109,000	
0956-001-171—For support of California Debt Advisory Commission, payable from the California Debt Advisory Commission Fund		1,284,000
Schedule:		
(a) 100000-Personal Services	691,000	
(b) 300000-Operating Expenses and Equipment	593,000	
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Debt Advisory Commission in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.		
0959-001-169—For support of California Debt Limit Allocation Committee, payable from the California Debt Limit Allocation Committee Fund		374,000
Schedule:		
(a) 100000-Personal Services	185,000	
(b) 300000-Operating Expenses and Equipment	189,000	
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize expendi-		

Item		Amount
tures for the California Debt Limit Allocation Committee in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.		
0965-001-215—For support of California Industrial Development Financing Advisory Commission, payable from the Industrial Development Fund.....		421,000
Schedule:		
(a) 100000—Personal Services.....	211,000	
(b) 300000—Operating Expenses and Equipment.....	210,000	
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Industrial Development Financing Advisory Commission in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.		
0968-001-457—For support of California Mortgage Bond and Tax Credit Allocation Committee, payable from the Mortgage Bond and Tax Credit Allocation Fee Account, General Fund.....		1,107,000
Schedule:		
(a) 100000—Personal Services.....	633,000	
(b) 300000—Operating Expenses and Equipment.....	474,000	
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Mortgage Bond and Tax Credit Allocation Committee in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner		

Item		Amount
than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.		
0971-001-731—For support of California Alternative Energy Source Financing Authority, payable from the California Alternative Energy Authority Fund		166,000
Schedule:		
(a) 100000—Personal Services	108,000	
(b) 300000—Operating Expenses and Equipment	58,000	
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Alternative Energy Source Financing Authority in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.		
STATE AND CONSUMER SERVICES		
1100-001-001—For support of Museum of Science and Industry		8,936,000
Schedule:		
(a) 10-Education	7,522,000	
(b) 30-California Afro American Museum	1,640,000	
(c) 40.01-Administration	1,620,000	
(d) 40.02-Distributed Administration	−1,620,000	
(e) Reimbursements	−226,000	
Provisions:		
1. The California Museum of Science and Industry shall notify the Legislature of its intent to enter into contractual arrangements which involve the California Museum Foundation. The Managing Director shall provide the Legislature with copies of all such executed contracts.		
2. The Director of General Services may not approve a contract, permit, or lease agreement by the museum (excluding those for museum exhibits) which reduces state revenues or in-		

Item		Amount
creases state costs by $25,000 or more unless, not sooner than 30 days prior to giving his or her approval, the director submits in writing to the Chairperson of the Joint Legislative Budget Committee notification of the director's intent to approve such contract, permit, or lease, or not sooner than such lesser time as the chairperson may in each instance determine. This provision shall have no effect as to those contracts that the legislative fiscal committees have examined as part of the budget process or otherwise.		
3. Of the funds appropriated in this item, $1,602,000 from the General Fund and $38,000 in reimbursements shall be made available to support the California Afro-American Museum.		
4. No money shall be expended from this item for a contract for fundraising activities until at least a net amount equal to the amount proposed to be expended for these purposes has been raised in cash or pledges for museum exhibits or the education program pursuant to the contract. Claims for interim payments of the fundraising contract may not exceed the amount of cash or pledges raised by the contractor up to the amount of the contract.		
5. The museum Board of Directors shall maintain sole discretion and authority regarding the selection and appointment of museum staff.		
1100-001-267—For support of California Museum of Science and Industry, payable from the Exposition Park Improvement Fund		2,009,000
1120-001-704—For support of Board of Accountancy, payable from the Accountancy Fund		6,407,000
Schedule:		
(a) 3-Board of Accountancy	6,426,000	
(b) Reimbursements	−19,000	
1130-004-706—For support of California State Board of Architectural Examiners, payable from the California State Board of Architectural Examiners' Fund		4,015,000
Schedule:		
(a) 6-Board of Architectural Examiners	4,020,000	
(b) Reimbursements	−5,000	
1140-006-001—For support of State Athletic Commission		787,000

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Schedule:		
(a) 9-State Athletic Commission	1,135,000	
(b) Amount payable from the Boxers Neurological Examination Account (Item 1140-006-492)	−348,000	
1140-006-492—For support of the Athletic Commission, for payment to Item 1140-006-001, payable from the Boxers Neurological Examination Account		348,000
1150-008-421—For support of Bureau of Automotive Repair, Department of Consumer Affairs, payable from the Vehicle Inspection and Repair Fund		71,557,000
Schedule:		
(a) 12-Bureau of Automotive Repair	71,675,000	
(b) Reimbursements	−118,000	
Provisions:		
1. No funds appropriated in this item may be used to contract with any entity, including the California Youth Authority (CYA), for the purpose of providing any exemption or information to motorists who cannot locate replacement emission control parts that are needed to pass smog inspections. However, this limitation shall not preclude the bureau's in-house staff from providing such an exemption or information to motorists.		
1160-010-713—For support of State Board of Barber Examiners, payable from the State Board of Barber Examiners' Fund		1,025,000
Schedule:		
(a) 15-State Board of Barber Examiners	1,026,000	
(b) Reimbursements	−1,000	
1170-012-773—For support of Board of Behavioral Science Examiners of the State of California, payable from the Behavioral Science Examiners Fund		2,667,000
Schedule:		
(a) 18-Board of Behavioral Science Examiners	2,693,000	
(b) Reimbursements	−26,000	
1180-014-717—For support of Cemetery Board, Program 21, payable from the Cemetery Fund		340,000
1200-016-157—For support of Bureau of Collection and Investigative Services, Department of Consumer Affairs, payable from the Collection Agency Fund		1,071,000
Schedule:		
(a) 24.10.010-Collection Agencies	1,078,000	
(b) Reimbursements	−7,000	

Item		Amount
1210-018-769—For support of Bureau of Collection and Investigative Services, Department of Consumer Affairs, payable from the Private Investigator Fund		4,527,000
Schedule:		
(a) 24.20-Private Investigators	5,955,000	
(b) 24.20.020-Distributed Private Investigators	−28,000	
(c) Reimbursements	−1,400,000	
1230-020-735—For support of Contractors' State License Board, payable from the Contractors' License Fund		34,268,000
Schedule:		
(a) 30-Contractors' State License Board	34,321,000	
(b) Reimbursements	−53,000	

Provisions:

1. No funds appropriated by this item may be encumbered for any services of the Attorney General which are in excess of the amounts budgeted therefor sooner than 30 days after written notification by the Department of Finance to the Chairperson of the Joint Legislative Budget Committee.
2. In expending funds appropriated pursuant to this item, the board shall give first priority to completing complaint mediation and investigation of all consumer complaints and complaints from industry sources. The board shall give second priority to investigation of applications at the level of 3 percent of all applications received by the board.

   No other complaints and investigations shall be processed if either of the following exists:

   (a) Consumer complaints are not mediated or investigated within a median time of 90 days of receipt by the board.
   (b) Application investigations are not completed within a median time of 90 days of receipt by the board.
3. The board shall report quarterly to the Joint Legislative Budget Committee and the relevant policy and fiscal committees of the Legislature all of the following:
   (a) The number of consumer complaints and application investigations.

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(b) The median time expended by the board in closing consumer complaints and application investigations.		
(c) The number of application and complaint investigations that exceed 90 days.		
(d) If other complaints have been mediated or investigated during the quarter and consumer complaints or application investigations are not being completed within a median time of 90 days, the board shall report the type and number of those cases, as well as the reasons for their priority treatment.		
(e) The status of filling all authorized enforcement positions.		
4. For purposes of Provisions 2, 3, and 5:		
(a) "Consumer complaint" means a complaint which is directly received from the public.		
(b) "Completed mediation" means a complaint that is closed, or referred to formal investigation, by a consumer services representative.		
(c) "Completed investigation" means a complaint that has been investigated by a deputy registrar and is closed or awaiting formal disciplinary action.		
5. During the course of mediation and investigation of consumer complaints, the board shall send a copy to the complainant of any notification sent to the defendant.		
1240-022-738—For support of State Board of Cosmetology, payable from the Board of Cosmetology's Contingent Fund		4,319,000
Schedule:		
(a) 33-State Board of Cosmetology	4,340,000	
(b) Reimbursements	−21,000	
1260-024-741—For support of Board of Dental Examiners of California, payable from the State Dentistry Fund		3,755,000
Schedule:		
(a) 36-Board of Dental Examiners	3,818,000	
(b) Reimbursements	−63,000	
1270-026-380—For support of Board of Dental Examiners of California, payable from the Dental Auxiliary Fund		886,000

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Schedule:		
(a) 36-Board of Dental Examiners.....	890,000	
(b) Reimbursements.....	−4,000	
Provisions:		
1. During the 1990–91 fiscal year, the board shall not expend an amount which will result in a deficit in the Dental Auxiliary Fund.		
1280-028-325—For support of Bureau of Electronic and Appliance Repair, Department of Consumer Affairs, Program 39, payable from the Electronic and Appliance Repair Fund		1,292,000
1330-036-750—For support of State Board of Funeral Directors and Embalmers, payable from the State Funeral Directors and Embalmers Fund.....		612,000
Schedule:		
(a) 48-State Board of Funeral Directors and Embalmers.....	616,000	
(b) Reimbursements.....	−4,000	
1340-038-205—For support of State Board of Registration for Geologists and Geophysicists, Program 51, payable from the Geology and Geophysics Fund .		382,000
1350-040-001—For support of State Board of Guide Dogs for the Blind, Program 54.....		51,000
1360-042-752—For support of Bureau of Home Furnishings, Department of Consumer Affairs, Program 57, payable from the Bureau of Home Furnishings Fund.....		2,590,000
1360-042-753—For support of Bureau of Home Furnishings, Department of Consumer Affairs, payable from the Dry Cleaning Account, Bureau of Home Furnishings Fund		47,000
1370-044-757—For support of California State Board of Landscape Architects, Program 60, payable from the State Board of Landscape Architects Fund		509,000
1390-046-758—For support of the Medical Board of California, payable from the Contingent Fund of the Medical Board of California.....		9,609,000
Schedule:		
(a) 63.10.010-Medical Board of California	10,182,500	
(ax) 63.10.015-Executive Director's salary.....	35,500	
(b) 63.15-Registered Dispensing Opticians	97,000	
(c) 63.10.020-Distributed Medical Board of California	−517,500	
(d) Reimbursements.....	−91,500	

Item Amount

(e) Amount payable from the Dispensing Optician's Fund (Item 1390-047-175) ..... —97,000

Provisions:

1. (a) No funds appropriated in this item or made available for encumbrance from any other source may be used to pay the salary of the Executive Director or for any costs of the board after December 31, 1990.

   (b) In order to receive funding for the period January 1, 1991 through June 30, 1991, the board shall prepare two reports and submit these reports to the members of the Joint Legislative Budget Committee, the fiscal committees of the Legislature, and the Department of Finance by July 15, 1990 (first report) and November 30, 1990 (second report). These reports must clearly indicate that the unassigned investigative case backlog has been reduced by 15 percent during the period July 1990 through November 1990. These reports shall include the number of unassigned investigative cases by date received, by priority category, and by physician and surgeon and allied health categories.

   (c) No earlier than November 1, 1990, the board, pursuant to the provisions of Section 27.00 of this Act, shall submit a request for deficiency authorization from the Contingent Fund of the Medical Board of California for the purpose of paying the salary of the Executive Director and the board's costs for the period January 1, 1991 through June 30, 1991. The approval of the requested deficiency authorization shall be contingent upon a 15 percent reduction in the board's unassigned investigative case backlog during the period July 1990 through November 1990, inclusive.

2. Of the amount appropriated in this item, up to $100,000 is provided to reimburse the Auditor General for the costs of contracting for an Evaluation of the Enforcement and Complaint Systems in place for tracking complaints from initial receipt to resolution, and to make recommendations that shall ensure realistic pri-

Item		Amount
oritizing and timely handling of complaints so that the public is protected and the complaint backlog is decreased and eliminated. The Auditor General shall administer this study and submit the report to the Legislature by December 1, 1990.		
1390-047-175— For support of Dispensing Opticians, Medical Board of California, for payment of Item 1390-046-758, payable from the Dispensing Optician's Fund		194,000
1400-048-108—For support of the Acupuncture Committee, Medical Board of California, payable from the Acupuncturists Fund		833,000
Schedule:		
(a) 63.20-Acupuncture Committee	840,000	
(b) Reimbursements	−7,000	
Provisions:		
1. Up to $226,000 appropriated in this item shall be used to contract with a consultant for further development and administration of the acupuncture licensure examination. The consultant shall, at a minimum, be responsible for the selection and translation of examination questions and the grading, weighting, and scoring of the examination.		
2. The Central Testing Unit (CTU) within the Department of Consumer Affairs shall oversee the administration of the examination, including the selection of examination proctors and the provisions for overall examination security.		
1410-050-208—For support of Hearing Aid Dispensers Examining Committee, Medical Board of California, payable from the Hearing Aid Dispensers Fund		358,000
Schedule:		
(a) 63.30-Hearing Aid Dispensers Examining Committee	362,000	
(b) Reimbursements	−4,000	
1420-052-759—For support of Physical Therapy Examining Committee, Medical Board of California, payable from the Physical Therapy Fund		532,000
Schedule:		
(a) 63.40-Physical Therapy Examining Committee	552,000	
(b) Reimbursements	−20,000	

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1430-054-280—For support of Physician's Assistant Examining Committee, Medical Board of California, payable from the Physician's Assistant Fund		491,000
Schedule:		
(a) 63.50-Physician's Assistant Examining Committee	494,000	
(b) Reimbursements	−3,000	
1440-056-295—For support of Podiatry Examining Committee, Medical Board of California, payable from the Podiatry Fund		784,000
Schedule:		
(a) 63.60-Podiatry Examining Committee	788,000	
(b) Reimbursements	−4,000	
1450-058-310—For support of the Board of Psychology, Medical Board of California, payable from the Psychology Fund		1,429,000
Schedule:		
(a) 63.70-Board of Psychology	1,467,000	
(b) Reimbursements	−38,000	
Provisions:		
1. During the 1990–91 fiscal year, the board shall not expend an amount which will result in a deficit in the Psychology Fund.		
1455-059-319—For support of Respiratory Care Examining Committee, Medical Board of California, payable from the Respiratory Care Fund		818,000
Schedule:		
(a) 63.75-Respiratory Care Examining Committee	845,000	
(b) Reimbursements	−27,000	
1460-060-376—For support of Speech Pathology and Audiology Examining Committee, Medical Board of California, payable from the Speech Pathology and Audiology Examining Committee Fund		291,000
Schedule:		
(a) 63.80-Speech Pathology and Audiology Committee	303,000	
(b) Reimbursements	−12,000	
1470-062-260—For support of State Board of Examiners of Nursing Home Administrators, payable from the Nursing Home Administrators' State License Examining Board Fund		414,000
Schedule:		
(a) 66-State Board of Examiners of Nursing Home Administrators	415,000	
(b) Reimbursements	−1,000	

Item		Amount
1480-064-763—For support of State Board of Optometry, payable from the State Optometry Fund		826,000
Schedule:		
(a) 69-Board of Optometry	832,000	
(b) Reimbursements	−6,000	
Provisions:		
1. Notwithstanding any other provision of law, $300,000 appropriated in this item shall be transferred by the Director of Finance to Item 6440-001-001 for expenditure by the Regents of the University of California for the development and administration of an optometric refresher course, similar to a dental refresher course currently administered by the University of California at Los Angeles Extension.		
1490-066-767—For support of California State Board of Pharmacy, payable from the Pharmacy Board Contingent Fund		3,307,000
Schedule:		
(a) 72-Board of Pharmacy	3,351,000	
(b) Reimbursements	−44,000	
1500-068-770—For support of State Board of Registration for Professional Engineers and Land Surveyors, payable from the Professional Engineers' and Land Surveyors' Fund		4,653,000
Schedule:		
(a) 75-State Board of Registration for Professional Engineers and Land Surveyors	4,657,000	
(b) Reimbursements	−4,000	
Provisions:		
1. No funds available in this item may be used to contract with the Prison Industries Authority (PIA) for the purpose of using inmate labor to handle licensees' personal information.		
1510-070-761—For support of Board of Registered Nursing, payable from the Board of Registered Nursing Fund		9,145,000
Schedule:		
(a) 78-Board of Registered Nursing	9,670,000	
(b) Reimbursements	−525,000	
1520-072-771—For support of Certified Shorthand Reporters Board, payable from the Shorthand Reporters' Fund		367,000
Schedule:		
(a) 81-Certified Shorthand Reporters Board	368,000	

Item		Amount
(b) Reimbursements	−1,000	
1530-001-140—For support of Structural Pest Control Board, Program 84, payable from the Environmental License Plate Fund		250,000
1530-074-399—For support of the Structural Pest Control Board, for payment to Item 1530-074-775, payable from the Structural Pest Control Education and Enforcement Fund		200,000
1530-074-775—For support of Structural Pest Control Board, payable from the Structural Pest Control Fund		2,346,000
Schedule:		
(a) 84-Structural Pest Control Board	2,548,000	
(b) Reimbursement	−2,000	
(c) Amount payable from the Structural Pest Control Education and Enforcement Fund (Item 1530-074-399)	−200,000	
1540-076-406—For support of Tax Preparers Program, payable from the Tax Preparers Fund		950,000
Schedule:		
(a) 87-Tax Preparers Program	965,000	
(b) Reimbursements	−15,000	
1560-078-777—For support of Board of Examiners in Veterinary Medicine, payable from the Board of Veterinary Examiners' Contingent Fund		730,000
Schedule:		
(a) 90.10.010-Board of Examiners in Veterinary Medicine	756,000	
(b) Reimbursements	−26,000	
1570-080-118—For support of Board of Examiners in Veterinary Medicine, Program 90, payable from the Animal Health Technician Examining Committee Fund		116,000
1590-082-779—For support of Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, payable from the Vocational Nurse and Psychiatric Technician Examiners' Fund, Vocational Nurses Account		3,436,000
Schedule:		
(a) 91.10-Vocational Nurses	3,489,000	
(b) Reimbursements	−53,000	
Provisions:		
1. During the 1990–91 fiscal year, the board shall not expend an amount which will result in a deficit in the Vocational Nurse and Psychiatric Technician Examiners' Fund, Vocational Nurses Account.		

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1600-084-780—For support of Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, Program 91, payable from the Vocational Nurse and Psychiatric Technician Examiners Fund, Psychiatric Technicians Account ..		858,000
Provisions:		
1. The amount appropriated from this item is from the moneys deposited under the provisions of Section 4547 of the Business and Professions Code.		
1640-086-001—For support of Division of Consumer Services, Department of Consumer Affairs.....		1,480,000
Schedule:		
(a) 93-Division of Consumer Services ..	1,506,000	
(b) Reimbursements.....	−26,000	
1655-090-702—For support of Department of Consumer Affairs, payable from the Consumer Affairs Fund.....		1,815,000
Schedule:		
(a) 93.01-Division of Consumer Services.....	1,337,000	
(b) 94.01.010-Division of Administration.....	8,805,000	
(c) 94.01.020-Division of Investigation ..	4,514,000	
(d) 94.01.030-Building Maintenance and Operation.....	1,815,000	
(e) 93.02-Distributed Division of Consumer Services.....	−1,337,000	
(f) Division of Technology	4,918,000	
(g) 94.02-Distributed Administration .	−13,107,000	
(h) Distributed Division of Technology.....	−4,899,000	
(i) Reimbursements.....	−231,000	
Provisions:		
1. The two positions approved to assist the department to relocate its offices shall be limited in term and shall not extend beyond March 31, 1991.		
2. Notwithstanding any other provision of law, from the rents collected for tenants in the Consumer Affairs Building, deposited in the Consumer Affairs Fund, and appropriated in this item, $57,000 shall be used for the relocation of the Department of Consumer Affairs from the Consumer Affairs Building.		

Item			Amount
1700-001-001—For support of Department of Fair Employment and Housing			10,695,000
Schedule:			
(a) 50-Administration of Civil Rights Law		13,548,000	
(b) Reimbursements		−13,000	
(c) Amount payable from the Federal Trust Fund (Item 1700-001-890)		−2,066,000	
(d) Amounts payable from the State Legalization Impact Assistance Fund (Section 23.50)		−774,000	
Provisions:			
1. None of the funds appropriated in this item shall be encumbered for transfer to any legal office or discrimination clinic.			
1700-001-890—For support of Department of Fair Employment and Housing, for payment to Item 1700-001-001, payable from the Federal Trust Fund			2,066,000
1700-011-001—For support of Department of Fair Employment and Housing, Los Angeles Legal Office			603,000
Provisions:			
1. The funds appropriated in this item shall be spent only in Los Angeles for legal staff and support of legal staff.			
1700-021-001—For support of Department of Fair Employment and Housing, San Francisco Legal Office			441,000
Provisions:			
1. The funds appropriated in this item shall be spent only in San Francisco and only for legal staff and support of legal staff.			
1700-031-001—For support of Department of Fair Employment and Housing, Boalt Hall Employment Discrimination Clinic			73,000
Provisions:			
1. The funds appropriated in this item shall be spent only at the University of California at Berkeley for the Employment Discrimination Clinic at Boalt Hall School of Law.			
1705-001-001—For support of the Fair Employment and Housing Commission, Program 10			830,000
1710-001-001—For support of State Fire Marshal			4,926,000
Schedule:			
(a) 10-State Fire Marshal		14,073,000	
(b) Reimbursements		−5,708,000	
(c) Amount payable from the California Fire and Arson Training Fund (Item 1710-001-198)		−1,437,000	

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(d) Amount payable from the California Fireworks Licensing Fund (Item 1710-001-199)	−283,000	
(e) Amount payable from the Hazardous Liquid Pipeline Safety Fund (Item 1710-001-209)	−1,320,000	
(f) Amount payable from the Federal Trust Fund (Item 1710-001-890)	−99,000	
(g) Amount payable from the Hazardous Liquid Pipeline Safety Fund (Chapter 1252, Statutes of 1989)	−100,000	
(h) Amount payable from the Hazardous Liquid Pipeline Safety Fund (Chapter 1277, Statutes of 1989)	−200,000	
1710-001-198—For support of the State Fire Marshal, for payment to Item 1710-001-001, payable from the California Fire and Arson Training Fund		1,437,000
1710-001-199—For support of the State Fire Marshal, for payment to Item 1710-001-001, payable from the California Fireworks Licensing Fund		283,000
1710-001-209—For support of the State Fire Marshal, for payment to Item 1710-001-001, payable from the Hazardous Liquid Pipeline Safety Fund		1,320,000
1710-001-890—For support of the State Fire Marshal, for payment to Item 1710-001-001, payable from the Federal Trust Fund		99,000
1730-001-001—For support of Franchise Tax Board		196,285,000
Schedule:		
(a) 10-Tax Programs	199,287,000	
(b) 20-Homeowners and Renters Assistance	2,517,000	
(c) 70-Contract Work	2,519,000	
(d) 80.01-Administration	14,075,000	
(e) 80.02-Distributed Administration	−14,075,000	
(f) Reimbursements	−2,575,000	
(g) Amount payable from the Delinquent Tax Collection Fund (Revenue and Taxation Code Sections 18839 and 26256)	−5,300,000	
(h) Amount payable from the Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account, Fish and Game Preservation Fund (Item 1730-001-200)	−24,000	

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(i) Amount payable from the U.S. Olympic Committee Fund (Item 1730-001-800)	−21,000	
(j) Amount payable from the State Children's Trust Fund (Item 1730-001-803)	−22,000	
(k) Amount payable from the California Alzheimer's Disease and Related Disorders Research Fund (Item 1730-001-823)	−31,000	
(*l*) Amount payable from the California Election Campaign Fund (Item 1730-001-905)	−18,000	
(m) Amount payable from the California Seniors Fund (Item 1730-001-983)	−20,000	
(n) Amount payable from the Vietnam Veterans Memorial Account (Military and Veterans Code Section 1306)	−27,000	
1730-001-200—For support of Franchise Tax Board, for payment to Item 1730-001-001, payable from the Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account, Fish and Game Preservation Fund		24,000
1730-001-800—For support of Franchise Tax Board, for payment to Item 1730-001-001, payable from the U.S. Olympic Committee Fund		21,000
1730-001-803—For support of Franchise Tax Board, for payment to Item 1730-001-001, payable from the State Children's Trust Fund		22,000
1730-001-823—For support of Franchise Tax Board, for payment to Item 1730-001-001, payable from the California Alzheimer's Disease and Related Disorders Research Fund		31,000
1730-001-905—For support of Franchise Tax Board, for payment to Item 1730-001-001, payable from the California Election Campaign Fund		18,000
1730-001-983—For support of Franchise Tax Board, for payment to Item 1730-001-001, payable from the California Seniors Fund		20,000
1760-001-001—For support of the Department of General Services, for payment to Item 1760-001-666 ...		1,128,000
Provisions:		
1. In addition to the funds available in this item, any amounts received from the sale of the Governor's Budget and related publications funded		

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from this item are available for expenditure.	
1760-001-002—For support of the Department of General Services, for payment to Item 1760-001-666, payable from the Property Acquisition Law Account, General Fund	1,629,000
Provisions:	
1. Of the amount appropriated by this item, $115,000 shall be available to the Department of General Services for administrative costs of a Proactive Assets Management Task Force to establish state policy regarding proactive assets management. The task force shall include a private consultant with private sector real estate expertise and shall include Members of the Legislature, the Office of Real Estate and Design Services, the Department of Transportation, the Resources Agency, the California State University system, the Little Hoover Commission, and the Legislative Analyst.	
1760-001-003—For support of Department of General Services, for payment to Item 1760-001-666, payable from Motor Vehicle Parking Facilities Moneys Account, General Fund	4,529,000
1760-001-006—For support of Department of General Services, for payment to Item 1760-001-666, payable from the Access for Handicapped Account, General Fund	1,064,000
1760-001-022—For support of Department of General Services, for payment to Item 1760-001-666, payable from State Emergency Telephone Number Account, General Fund	994,000
1760-001-026—For support of Department of General Services, for payment to Item 1760-001-666, payable from the State Motor Vehicle Insurance Account, General Fund	2,567,000
Provisions:	
1. Notwithstanding any other provision of law, funds available for the payment of claims are continuously appropriated without regard to fiscal year.	
1760-001-120—For support of Department of General Services, for payment to Item 1760-001-666, payable from School Building Program Account, Architecture Public Building Fund	9,425,000

Item	Amount
1760-001-122—For support of Department of General Services, for payment to Item 1760-001-666, payable from Hospital Plan Checking Account, Architecture Public Building Fund	2,637,000
1760-001-344—For support of Department of General Services, for payment to Item 1760-001-666, payable from the State School Building Lease-Purchase Fund	9,146,000
Provisions:	
1. Notwithstanding the provisions of Sections 27 and 28 of the Budget Act, the Director of the Department of Finance may authorize an augmentation to funds appropriated in Item 1760-001-344 to establish up to five additional positions to perform local match program audits.	
1760-001-397—For support of Department of General Services, for payment to Item 1760-001-666, payable from the California State Police Fund	110,000
1760-001-450—For support of Department of General Services, for payment to Item 1760-001-666, payable from the Seismic Gas Valve Certification Fund	84,000
1760-001-465—For support of Department of General Services, for payment to Item 1760-001-666, payable from the Energy Resources Programs Account, General Fund	1,368,000
Provisions:	
1. On or before September 30 of each year, the Director of General Services shall report, using generally accepted accounting principles, to the legislative fiscal committees on the income and expenses of all Office of Energy Assessment activities in the previous fiscal year. This report shall identify personal services costs, operating expenses, and revenues.	
1760-001-602—For support of Department of General Services, for payment to Item 1760-001-666, payable from the Architecture Revolving Fund	18,478,000
Provisions:	
1. Notwithstanding the provisions of Item 9840-001-988 and Section 27 of this act, the Director of Finance may augment this item in cases where the Legislature has approved funds for a client department for a particular project, the project involves additional expense by the Department of General Services and the corresponding expenditure authority has not been provided in this item.	

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2. The Department of General Services may make loans not to exceed a total of $12,000,000 from the Architecture Revolving Fund to the Service Revolving Fund (Item 1760-001-666) on a monthly basis, as needed, for cash-flow purposes, with all money loaned during 1990–91 to be repaid to the Architecture Revolving Fund prior to June 30, 1991. The Service Revolving Fund shall also pay interest to the General Fund pursuant to the provisions of Government Code Section 16314.		
1760-001-666—For support of Department of General Services, payable from the Service Revolving Fund		346,377,000
Schedule:		
(a) 100000—Personal Services	199,579,000	
(b) 300000—Operating Expenses and Equipment	272,937,000	
(c) Distributed services	−67,243,000	
(cx) Reimbursements-Johns-Manville Settlement	−228,000	
(d) Amount payable from the General Fund (Item 1760-001-001)	−1,128,000	
(e) Amount payable from the General Fund (Return of Funds from Architecture Revolving Fund as reappropriated by Item 1760-490)	−1,538,000	
(f) Amount payable from the Property Acquisition Law Account, General Fund (Item 1760-001-002)	−1,629,000	
(g) Amount payable from the Motor Vehicle Parking Facilities Moneys Account, General Fund (Item 1760-001-003)	−4,529,000	
(h) Amount payable from the Access for Handicapped Account, General Fund (Item 1760-001-006)	−1,064,000	
(i) Amount payable from the State Emergency Telephone Number Account, General Fund (Item 1760-001-022)	−994,000	
(j) Amount payable from the State Motor Vehicle Insurance Account, General Fund (Item 1760-001-026)	−2,567,000	

Item		Amount
(k)	Amount payable from the School Building Program Account, Architecture Public Building Fund (Item 1760-001-120)	−9,425,000
(*l*)	Amount payable from the Hospital Plan Checking Account, Architecture Public Building Fund (Item 1760-001-122)	−2,637,000
(m)	Amount payable from the State School Lease-Purchase Fund (Item 1760-001-344)	−9,146,000
(n)	Amount payable from the California State Police Fund (Item 1760-001-397)	−110,000
(o)	Amount payable from the Seismic Gas Valve Certification Fund (Item 1760-001-450)	−84,000
(p)	Amount payable from the Energy Resources Programs Account, General Fund (Item 1760-001-465)	−1,368,000
(q)	Amount payable from the Architecture Revolving Fund (Item 1760-001-602)	−18,478,000
(r)	Amount payable from the State School Building Aid Fund (Item 1760-001-739)	−799,000
(rr)	Amount payable from the Earthquake Safety and Public Buildings Rehabilitation Bond Fund of 1990 (Item 1760-001-768)	−182,000
(rx)	Amount payable from the Higher Education Capital Outlay Fund of 1990 (Item 1760-001-791)	−182,000
(s)	Amount payable from the State School Deferred Maintenance Fund (Item 1760-001-961)	−174,000
(t)	Amount payable from the Architecture Revolving Fund (Item 1760-011-602)	−2,391,000
(u)	Amount payable from the State Child Care Facilities Fund (Item 1760-011-862)	−63,000
(vx)	Amount payable from the General Fund (Item 1760-031-001)	−180,000

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Provisions:

1. From any balance in the Service Revolving Fund, the Director of General Services, with the approval of the Director of Finance, may expend funds in excess of the amount appropriated in this item for the purchase of office copier machines. Any such amounts authorized by the Director of Finance for the purchase of office copier machines are hereby appropriated from the Service Revolving Fund as a loan to be repaid upon such terms and conditions as prescribed by the Director of Finance.
2. Any surplus resulting from legislative printing shall be shown as reimbursements to Item 0130-021-001 of this act.
3. Notwithstanding the provisions of Item 9840-001-988 and Section 27 of this act, the Director of Finance may augment this item in cases where the Legislature has approved funds for a client department for services or the purchase of equipment by the Department of General Services and the corresponding expenditure authority has not been provided in this item.
4. Notwithstanding Section 16422 of the Government Code, the balance of any rental receipts paid into the Building Rental Account of the Service Revolving Fund as of June 30, 1990, after accounting for all receipts and the fiscal year 1989–90 costs of maintaining, operating, and insuring buildings included within the account shall be transferred by the State Controller to the General Fund and reported to the Joint Legislative Budget Committee no later than September 30, 1990.
6. Of the amount appropriated in this item, up to $295,000 shall be used to replace 270 slanted dual-paned windows in the building located at 751 N Street, Sacramento, provided that the project carries a 10-year warranty against any defect in materials and workmanship.
7. Of the amount appropriated in this item for telecommunications services to the Department of Forestry and Fire Protection, $584,000 is available only if a bond measure is enacted by the Legislature to meet the cost of these services.
8. Of the amount scheduled in this item, up to $228,000 shall be available for support costs to

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pursue recoveries from the Johns-Manville settlement. These costs shall be reimbursed from the revenues received from the settlement. The balance of any amounts recovered from the Johns-Manville Property Damage Settlement Trust shall be deposited in the General Fund.

9. In the event that revenues are not received in the 1990–91 fiscal year from the Johns-Manville settlement, the Director of Finance is authorized to transfer to this item an amount not to exceed $228,000 from any of the amounts scheduled for asbestos abatement from the Special Account for Capital Outlay in Item 1760-490.
10. (a) The Department of General Services shall conduct a survey to determine the extent to which its contracts in the 1989–90 fiscal year met the requirements of Chapter 61 of the Statutes of 1988. The survey shall determine, in particular, the extent to which the level of minority- and women-owned businesses (specified in a bid) to be used by a prime contractor was achieved upon completion of the contract. To conduct the survey, the department shall use a stratified random sampling procedure, or other appropriate methods, to develop statistically valid measures of the overall level of compliance, as well as the level of compliance by type of contract and by dollar amounts (e.g., those that are greater than $100,000 and less than $100,000).

    (b) The department shall report the results of its survey to the appropriate fiscal and policy committees of the Legislature and to the Joint Legislative Budget Committee on or before December 1, 1991. The report, in addition to the survey results, shall identify for each of the contracts included in the sample: (a) the contract number, (b) dollar value, (c) contract type, and (d) the difference, if any, between the participation level bid and the level achieved.
11. The Department of General Services shall work with various Memorial volunteer associations to develop and implement a plan to secure the Vietnam Veterans Memorial in Capitol Park in Sacramento.
12. The Department of General Services shall re-

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flect special repair increases/decreases in the 1990–91 published building rental rate.	
13. The Office of Small and Minority Business of the Department of General Services shall continue to provide in its annual report statewide statistics on participation levels by minority- and women-owned enterprises in contracts issued by state agencies.	
14. During the 1990–91 fiscal year, the department shall develop and, if possible, shall implement a plan to provide child care services for state employees at the Van Nuys State Building and shall fully comply with Section 4560 of the Government Code.	
1760-001-739—For support of Department of General Services, for payment to Item 1760-001-666, payable from the State School Building Aid Fund	799,000
1760-001-768—For support of Department of General Services, for payment to Item 1760-001-666, payable from the Earthquake Safety Public Buildings Rehabilitation Bond Act of 1990	182,000
Provisions:	
1. Prior to the expenditure of any funds appropriated in this item, the Office of the State Architect and the Seismic Safety Commission shall jointly establish criteria for seismic surveys of all state buildings.	
2. Based on the information obtained from the survey pursuant to provision 1, the Office of the State Architect and the Seismic Safety Commission shall jointly establish criteria and methodology to determine priority lists for seismic upgrading of state buildings. The Office of the State Architect shall report to the Legislature on the funding criteria and methodology required under this provision and provision 1.	
1760-001-791—For support of Department of General Services, for payment to Item 1760-001-666, payable from the June 1990 Higher Education Capital Outlay Fund	182,000
Provisions:	
1. Prior to the expenditure of any funds appropriated in this item, the Office of the State Architect and the Seismic Safety Commission shall jointly establish criteria for seismic surveys of all University of California, California State University, and community college buildings.	

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2. Based on the information obtained from the survey pursuant to provision 1, the Office of the State Architect and the Seismic Safety Commission shall jointly establish criteria and methodology to determine priority lists for seismic upgrading of University of California, California State University, and community college buildings. The Office of the State Architect shall report to the Legislature on the funding criteria and methodology required under this provision and provision 1.	
1760-001-961—For support of Department of General Services for payment to Item 1760-001-666, payable from the State School Deferred Maintenance Fund	174,000
1760-011-602—For support of the Department of General Services, for activities other than the Office of State Architect, for payment to Item 1760-001-666, payable from the Architecture Revolving Fund ...	2,391,000
Provisions:	
1. Notwithstanding the provisions of Item 9840-001-988 and Section 27 of this act, the Director of Finance may augment this item in cases where the Legislature has approved funds for a client department for services or the purchase of equipment by the Department of General Services and the corresponding expenditure authority has not been provided in this item.	
2. The Department of General Services shall seek legislation that will define the duties and responsibilities of the Office of the State Architect and the Office of Project Development and Management in implementing the state's capital outlay program.	
1760-011-666—For augmentation of the Service Revolving Fund, to be transferred by the State Controller in such amounts and at such times as funds are made available. Upon approval of the State Board of Control, the State Controller shall transfer to this item from any appropriation made from the General Fund, or any special fund, by the provisions of this act that part of such appropriation which is intended to be used and is available, for the purchase or replacement of automobiles and reproduction equipment, and provided, any funds in the Service Revolving Fund may be used to purchase equipment from the General Fund or spe-	

Item	Amount
cial funds of the state at the depreciated value at the time of purchase payable at the option of the Service Revolving Fund over the remaining depreciation period.	
1760-011-862—For support of Department of General Services, payable from the Child Care Facilities Fund.....	63,000
Provisions:	
1. Notwithstanding any other provision of law, these funds are available through June 30, 1991, for the Office of Local Assistance to complete the distribution of child care facilities funds.	
1760-021-666—For transfer to the General Fund	(12,000,000)
Provision:	
1. Notwithstanding Section 2.00 of this Act, on June 30, 1990, the State Controller shall transfer $12,000,000 from the Service Revolving Fund to the General Fund.	
1760-031-001—For support of Department of General Services, for payment to Item 1760-001-666, payable from the General Fund.....	180,000
Provisions:	
1. The funds appropriated in this item shall be available for expenditure pursuant to Assembly Bill 12 of the 1989–90 First Extraordinary Session only if that bill is chaptered and takes effect.	
1760-031-666—For transfer to the General Fund	(16,995,000)
Provisions:	
1. Notwithstanding Section 2.00 of this Act, on June 30, 1991, the State Controller shall transfer $16,995,000 from the Service Revolving Fund to the General Fund. The Director of Finance is hereby authorized to make short-term loans from the General Fund to the Service Revolving Fund to avoid cash flow shortages.	
1760-101-001—For transfer to the State Emergency Telephone Number Account upon written approval of the Department of Finance to provide operating funds for support of the Emergency Telephone Number Program on a monthly basis, as needed, for cash-flow purposes, with all money transferred during 1990–91 to be reverted to the General Fund prior to June 30, 1991.....	(10,476,000)
Provisions:	
1. The Department of General Services shall calculate the interest cost on funds transferred from the General Fund to the State Emergency	

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	Telephone Number Account pursuant to this item using the average rate earned by the Pooled Money Investment Account during the period of the transfer. This interest cost shall be deducted from the amount owed by the General Fund to the State Emergency Telephone Number Account.	
1760-101-022—For local assistance, Department of General Services, for reimbursement of local agencies and service suppliers or communications equipment companies for costs incurred pursuant to Sections 41137, 41137.1, 41138, and 41140 of the Revenue and Taxation Code, payable from the State Emergency Telephone Number Account, General Fund		57,085,000
1760-301-036—For capital outlay, Department of General Services, payable from the Special Account for Capital Outlay		537,000
Schedule:		
(1) 50.10.002-Sacramento: Central Plant Condensing Water—Preliminary plans, working drawings and construction	401,000	
(2) 50.10.003-Sacramento: Central Plant Upgrade—Preliminary plans	136,000	
Provisions:		
1. The $136,000 appropriated in this item by category (2) is for preliminary plans for the upgrade of the central plant, including conversion to the use of electric motors. Appropriation of these funds, however, shall not be considered final approval by the Legislature for converting from gas turbines to electric motors to power the plant's chillers. Prior to legislative approval of working drawings and construction for the entire plant upgrade project, the Department of General Services shall provide the Legislature with: (a) a complete cost analysis, including a sensitivity analysis of the various assumptions, of gas turbine and electric motor options; and (b) a cost/benefit analysis, including sensitivity analysis of the various assumptions, of a cogeneration project for the plant.		
2. The information specified in provision 1 shall be submitted to the Chair of the Joint Legislative Budget Committee and the chairs of the fiscal		

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committees in each house prior to the department's request for working drawings for the upgrade project. Approval to proceed with the plant upgrade project shall be contingent upon the Legislature's complete and final review of these documents.		
1760-301-666—For capital outlay, Department of General Services, payable from the Service Revolving Fund		1,911,000
Schedule:		
(1) 50.95.000-Minor Projects	216,000	
(2) 50.10.062-State Capitol: Fire sprinkler system, lowered ceiling system in all main corridors and halls, and emergency lighting system—Assessment study and report.	30,000	
(3) 50.10.064-State Capitol Annex: Replace terrazzo floors	60,000	
(4) 50.10.066-State Capitol Annex: Renovate main bank of four elevators	1,064,000	
(5) 50.10.068-State Capitol: Replace and enhance the Public Address System	190,000	
(6) 50.10.070-State Capitol Annex: Handicap accessibility to the restrooms, drinking fountains, and the sixth floor cafeteria	351,000	
1760-490—Reappropriation, Department of General Services. Notwithstanding any other provision of law:		
001 General Fund		
(1) $1,538,000 is hereby reappropriated from amounts returned to the General Fund from previous transfers made to the Architecture Revolving Fund,. This amount shall be available for these programs as follows:		
Schedule:		
(a) Asbestos Abatement Program	337,000	
(b) PCB Program	628,000	
(c) Underground Tank Storage Program	573,000	
It is the intent of the Legislature that no transfers of funds are to occur between these programs. Any proposals to transfer funds shall be submitted in accordance with Section 6.50 of this act. Each proposal shall detail reasons for		

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the transfer and the impact on the program from which the transfer is proposed.

036 Special Account for Capital Outlay

(1) $9,000,000 is hereby reappropriated from amounts returned to the Special Account for Capital Outlay from previous transfers made to the Architecture Revolving Fund. This amount shall be available for these programs as follows:

Schedule:

(a) Asbestos Abatement Program..... 2,300,000
(b) PCB Program..... 2,700,000
(c) Underground Storage Tank Program..... 4,000,000

It is the intent of the Legislature that no transfers of funds are to occur between these programs. Any proposals to transfer funds shall be submitted in accordance with Section 6.50 of this act. Each proposal shall detail reasons for the transfer and the impact on the program from which the transfer is proposed.

1760-495—Reversion, Department of General Services. As of June 30, 1990, $6,362,000 from the unencumbered balance of previous transfers to the Architectural Revolving Fund for the Asbestos Abatement, PCB, and Underground Storage Tank programs shall revert to the General Fund.

1760-496—Reversion, Department of General Services. As of June 30, 1990, $558,000 of the unencumbered balance of the amount appropriated in Item 1760-001-666 of the Budget Act of 1989 for special repairs shall revert to the Service Revolving Fund.

1880-001-001—For support of State Personnel Board... 11,520,000

Schedule:

(a) 10-Merit System Administration... 15,045,000
(b) 40-Local Government Services.... 917,000
(c) 50.01-Administrative Services..... 4,431,000
(d) 50.02-Distributed Administrative Services..... −4,092,000
(e) Reimbursements..... −4,781,000

Provisions:

1. The State Personnel Board may receive unbudgeted reimbursements from state agencies pursuant to interagency agreements for the provision of additional personnel services only upon approval of the Director of Finance and notification to the Legislature pursuant to the provi-

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sions of Section 28.00, except for reimbursements for which funding originates from nonstate sources.		
2. It is the intent of the Legislature that the Air Resources Board, the State Controller, and the departments of Developmental Services, Mental Health, Food and Agriculture, General Services, Parks and Recreation, Transportation, Social Services, Justice, Youth Authority, and Health Services shall utilize funds appropriated by this act to maintain, at a minimum, the level of staff employed in prior years in accordance with Sections 12000 to 12005, inclusive, of the Unemployment Insurance Code.		
1900-001-001—For support of Board of Administration of the Public Employees' Retirement System, for payment to Item 1900-001-830		56,000
1900-001-815—For support of Board of Administration of the Public Employees' Retirement System, for payment to Item 1900-001-830, payable from the Judges' Retirement Fund		273,000
Provisions:		
1. The appropriation made by this item is for support of the Board of Administration in accordance with Section 75108 of the Government Code.		
1900-001-820—For support of Board of Administration of the Public Employees' Retirement System, for payment to Item 1900-001-830, payable from the Legislators' Retirement Fund		173,000
Provisions:		
1. The appropriation made by this item is for support of the Board of Administration in accordance with Section 9354 of the Government Code.		
1900-001-830—For support of Board of Administration of the Public Employees' Retirement System, payable from the Public Employees' Retirement Fund.		46,122,000
Schedule:		
(a) 10-Retirement	45,423,000	
(b) 20-Social Security	445,000	
(c) 30-Health Benefits	6,172,000	
(d) 40-PERS Redesign Project	1,256,000	
(e) 50.01-Administration	25,660,000	
(f) 50.02-Distributed Administration	−24,833,000	
(g) Reimbursements	−1,188,000	

Item		Amount
(h) Amount payable from the General Fund (Item 1900-001-001)	−56,000	
(i) Amount payable from the Judges' Retirement Fund (Item 1900-001-815)	−273,000	
(j) Amount payable from the Legislators' Retirement Fund (Item 1900-001-820)	−173,000	
(k) Amount payable from the Public Employees' Contingency Reserve Fund (Item 1900-001-950)	−6,238,000	
(*l*) Amount payable from the Volunteer Firefighters Length of Service Award System Fund (Item 1900-001-962)	−73,000	
Provisions:		
1. The four additional Real Estate Program positions shall be used to conduct research on proposed acquisitions and for expanded oversight over the real estate advisers.		
1900-001-950—For support of Board of Administration of the Public Employees' Retirement System, for payment to Item 1900-001-830, payable from the Public Employees' Contingency Reserve Fund		6,238,000
Provisions:		
1. The appropriation made by this item is for support of the Board of Administration pursuant to Section 22840 of the Government Code.		
1900-001-962—For support of Board of Administration of the Public Employees' Retirement System, for payment to Item 1900-001-830, payable from the Volunteer Firefighters Length of Service Award System Fund.....		73,000
1920-001-835—For support of State Teachers' Retirement System, payable from the State Teachers' Retirement Fund.....		28,796,504
Schedule:		
(a) 100000-Personal Services.....	15,562,504	
(b) 300000-Operating Expenses and Equipment.....	13,636,000	
(c) Reimbursements.....	−239,000	
(d) Amount payable from the Teacher Tax Sheltered Annuity Fund (Item 1920-001-963)	−66,000	

Item		Amount
(e) Amount payable from the Retirees' Purchasing Power Protection Account in the State Teachers' Retirement Fund pursuant to Section 24701 of the Education Code	−97,000	
Provisions:		
1. Notwithstanding Education Code Section 23400.4, it is the intent of the legislature to defer the General Fund loan repayment to the 1991–92 fiscal year. Further the intent of the legislature that the benefit payments for retired teachers will continue to funded in the 1990–91 fiscal year.		
1920-001-963—For support of State Teachers' Retirement System, for payment to Item 1920-001-835, payable from the Teacher Tax Sheltered Annuity Fund		66,000
Provisions:		
1. This appropriation is for costs incurred in operating the tax-sheltered annuity program pursuant to Section 22231 of the Education Code.		
1920-495—Reversion, Department of Education. As of June 30, 1990, the following amounts of the appropriations provided in the following citations shall revert to the fund balance of the fund from which the appropriation was made:		
835–State Teachers Retirement Fund		
(a) Chapter 743, Statutes of 1988	39,904	
(b) Chapter 792, Statutes of 1988	40,635	
1960-001-001—For support of Department of Veterans Affairs		2,647,000
Schedule:		
(a) 100000-Personal Services	3,141,000	
(b) 300000-Operating Expenses and Equipment	504,000	
(c) Educational Assistance to Veterans' Dependents	350,000	
(d) Reimbursements	−224,000	
(e) Amount payable from the Veterans' Farm and Home Building Fund of 1943 (Item 1960-001-592)	−1,086,000	
(f) Amount payable from the California National Guard Members' Farm and Home Building Fund of 1978 (Military and Veterans Code Section 485)	−38,000	

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Provisions:

1. No funds shall be expended for educational assistance program grants to persons whose family incomes exceed the following limits:
   (a) $31,500 for three or fewer family members.
   (b) $33,600 for four family members.
   (c) $35,700 for five family members.
   (d) $37,800 for six or more family members.
   (e) $39,900 for three or more family members, if at least two members are attending college.

   As used in this provision, the term "family member" shall include only the dependent applicant; the parents, either natural or adoptive, of the dependent applicant; the dependent brothers and sisters, either natural or adoptive, of the dependent applicant; the spouse of the dependent applicant, if married; and any other persons who are dependent upon the family income for more than 50 percent of their support. The term "family income" shall include only the income of the dependent applicant; the parents, either natural or adoptive, of the dependent applicant; and, if married, the spouse of the dependent applicant; and shall mean "adjusted gross income" as that term is defined in Section 17072 of the Revenue and Taxation Code.
2. Expenditures pursuant to category (c) are for educational assistance to veterans' dependents, the Department of Veterans Affairs, to be expended under the provisions of Sections 890 through 899 of the Military and Veterans Code. However, no funds appropriated in this item, except as specified, may be expended to provide financial assistance for the education of dependents of non-California veterans killed or totally disabled as a result of active military service and of non-California servicemen currently missing in action. This restriction shall not apply to dependents receiving such financial assistance in, or prior to, fiscal year 1978–79. "Non-California veteran" means a person not meeting the requirements of Section 980 of the Military and Veterans Code.

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1960-001-592—For support of Department of Veterans Affairs, for payment to Item 1960-001-001, payable from the Veterans' Farm and Home Building Fund of 1943			1,086,000
1960-101-001—For local assistance, Department of Veterans Affairs, for contribution to counties toward compensation and expenses of county veteran services offices, to be expended in accordance with Section 972 of the Military and Veterans Code.....			1,750,000
Schedule:			
(a) 20-Veterans Claims and Rights	2,115,000		
(b) Reimbursements.....	−365,000		
1970-011-001—For support of Veterans' Home of California.....			27,112,000
Schedule:			
(a) 30-Care of Sick and Disabled Veterans.....	46,148,000		
(b) Reimbursements.....	−7,633,000		
(c) Amount payable from the Federal Trust Fund (Item 1970-011-890) ..	−11,403,000		
Provisions:			
1. The General Fund shall make a loan available to the Veterans' Home of California to meet cash needs resulting from the delay in receipt of federal reimbursement for medical services provided. The loan is short term, and shall be repaid within six months. Interest charges shall be waived pursuant to subdivision (e) of Section 16314 of the Government Code.			
2. Any loan authorized pursuant to this item shall require approval by the Department of Finance. Provisions 2, 3, and 4 of Item 9840-011-001 shall also apply to any loan authorized pursuant to this item.			
1970-011-890—For support of Veterans' Home of California, for payment to Item 1970-011-001, payable from the Federal Trust Fund			11,403,000
1970-301-036—For capital outlay, Veterans' Home of California, Department of Veterans Affairs, payable from the Special Account for Capital Outlay.....			5,463,000
Schedule:			
(1) 80.20.190—Remodel Hospital Wards 1, 2, 3B (SNF) and Electrical Distribution System—Additional working drawings and construction	1,424,000		

Item		Amount
(2) 80.20.195—Remodel Hospital Wards 2, 3E and Administration and Hospital Support Services Ward A-A—Additional working drawings and construction	3,109,000	
(3.5) 80.20.210—Program Management	348,000	
(4) 80.20.045—Minor Projects	94,000	
(5) 80.20.105-Section J—Plan review, value engineering, cost estimates, asbestos abatement plans	25,000	
(6) 80.20.115-Section L—Plan review, value engineering, cost estimates, asbestos abatement plans	21,000	
(7) 80.20.215-Wing C—Plan review, value engineering, cost estimates, asbestos abatement plans	81,000	
(8) 80.20.220-Wing D—Plan review, value engineering, cost estimates, asbestos abatement plans	76,000	
(9) 80.20.080-Annex II—Plan review, value engineering, cost estimates, asbestos abatement plans	91,000	
(10) 80.20.060-Remodel Section B (Intermediate)—Additional construction	194,000	
1970-301-890—For capital outlay, Veterans' Home of California, Department of Veterans Affairs, payable from the Federal Trust Fund		7,102,000
Schedule:		
(1) 80.20.190—Remodel Hospital Wards 1, 2, 3B (SNF) and Electrical Distribution System—Construction	3,130,000	
(2) 80.20.195—Remodel Hospital Wards 2, 3E and Administration and Hospital Support Services Ward A-A—Construction	3,972,000	
1970-490—Reappropriation, Department of Veterans Affairs. The balance of the appropriation provided in the following citation is reappropriated for the purposes, and subject to the limitations unless otherwise specified, provided for in the appropriation:		
036—Special Account for Capital Outlay		
(1) Item 1970-301-036(6), Budget Act of 1989, as amended by Chapter 1353, Statutes of 1989,		

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80.20.120 (as amended to read 80.20.200)-Construction Management Program.

1970-491—Reappropriation, Department of Veterans Affairs. Notwithstanding any other provision of law, the unexpended balance appropriated to the Department of Veterans Affairs (DVA) from the Special Account for Capital Outlay pursuant to Chapter 1240 of the Statutes of 1988 is reappropriated to the Department of General Services (DGS) to select a single site and complete an environmental impact report (EIR) to develop one facility as the Veterans Home in southern California. The DGS shall coordinate program requirements with the DVA for this project. It is the intent of the Legislature that the project not be acquired, developed, or operated through privatization with private funds.

036—Special Account for Capital Outlay:

(1) Chapter 1240, Statutes of 1988.

1970-496—Reversion, Department of Veterans Affairs. As of June 30, 1990, the unencumbered balance of the appropriations provided in the following citations shall revert to the fund balance of the fund from which the appropriation was made:

036—Special Account for Capital Outlay:

(1) Item 1970-301-036(2), Budget Act of 1987, as reappropriated by Item 1970-490, Budget Acts of 1988 and 1989, 80.20.050—Renovate Hospital Support Services—Construction.

(2) Item 1970-301-036(6), Budget Act of 1987, as reappropriated by Item 1970-490, Budget Acts of 1988 and 1989, 80.20.075—Remodel Hospital Wards 2, 3E, and Administration—Construction.

(3) Item 1970-301-036(7), Budget Act of 1989, as added by Chapter 1353, Statutes of 1989, 80.20.130 (as amended to read 80.20.205), Departmental Construction, Management Branch Staffing; 1.0 personnel year, effective January 1, 1990.

890-Federal Trust Fund:

(1) Item 1970-301-890(2), Budget Act of 1987, as reappropriated by Item 1970-490, Budget Acts of 1988 and 1989, 80.20.050—Renovate Hospital Support Services—Construction.

(2) Item 1970-301-890(4), Budget Act of 1987, as reappropriated by Item 1970-490, Budget Acts

Item		Amount
of 1988 and 1989, 80.20.075—Remodel Hospital Wards 2, 3E, and Administration—Construction.		
BUSINESS, TRANSPORTATION AND HOUSING		
2100-001-001—For support of Department of Alcoholic Beverage Control		22,789,000
Schedule:		
(a) 10.10-Licensing	12,831,000	
(b) 10.20-Compliance	10,532,000	
(c) 10.30.010-Administration	2,641,000	
(d) 10.30.020-Distributed Administration	−2,641,000	
(e) Reimbursements	−574,000	
2120-001-117—For support of Alcoholic Beverage Control Appeals Board, Program 10, payable from the Alcoholic Beverage Control Appeals Fund		529,000
2140-001-136—For support of State Banking Department, payable from the State Banking Fund		14,176,000
Schedule:		
(a) 10-Licensing and Supervision of Banks and Trust Companies	13,729,000	
(b) 20-Payment Instruments	566,000	
(c) 30-Certification of Securities	9,000	
(d) 40-Administration of Local Agency Security	257,000	
(e) 50-Supervision of California Business and Industrial Development Corporations	31,000	
(f) 60.01-Administrative Support Services	4,600,000	
(g) 60.02-Distributed Administrative Support Services	−4,600,000	
(h) Reimbursements	−159,000	
(i) Amount payable from the Local Agency Deposit Security Fund (Item 2140-001-240)	−257,000	
2140-001-240—For support of State Banking Department, for payment to Item 2140-001-136, payable from the Local Agency Deposit Security Fund		257,000
2180-001-001—For support of Department of Corporations		10,572,000
Schedule:		
(a) 10-Investment Program	10,602,000	
(b) 20-Lender-Fiduciary Program	9,751,000	

Item		Amount
(c) 30-Health Care Service Plan Program	4,025,000	
(d) 50.01-Administration	1,152,000	
(e) 50.02-Distributed Administration	−1,152,000	
(f) Reimbursements	−13,806,000	

Provisions:

1. Notwithstanding any other provision of law, the Commissioner of Corporations may levy a one-time special assessment on escrow licensees to provide sufficient funds to cover the regulatory and enforcement costs associated with the escrow program during the 1990–91 fiscal year.

2200-001-001—For support of Department of Commerce 15,524,000

Schedule:

(a) 15-California Film Commission	820,000	
(ax) 10-Business Development	3,453,000	
(b) 25-Marketing and Communications	512,000	
(c) 30-Tourism	6,489,000	
(d) 40-Local Development	1,703,000	
(e) 50-Small Business	1,655,000	
(f) 60-Economic Research	832,000	
(g) 70.01-Administration	2,698,000	
(h) 70.02-Distributed Administration	−2,698,000	
(i) Reimbursements	−468,000	
(j) 20-Competitive Technology	528,000	

Provisions:

1. The graphics and animation facility of the San Diego Supercomputer Center, once acquired, shall be held and managed by the University of California, San Diego, in accord with the intent of Chapter 1558 of the Statutes of 1988.
2. Of the funds appropriated in category (c), $175,000 shall be allocated to PacRim 90 for its regional conference in San Francisco.
3. The department shall implement Resolution Chapter 27 of the Statutes of 1990 regarding a study of the financial obstacles to small business development and an overview of the public-private approaches which may be used to overcome these obstacles. The department shall fund these activities within existing resources and with public and private donations.

2200-001-147—For support, Department of Commerce, payable from the California Unitary Fund 1,900,000

Item		Amount
Schedule:		
(a) Tourism	1,900,000	
2200-001-440—For support of Department of Commerce, Program 50, Small Business, payable from the Petroleum Underground Storage Tank Financing Account		210,000
2200-101-001—For local assistance, Department of Commerce		6,581,000
Schedule:		
(a) For transfer to the Competitive Technology Fund	6,580,000	
(b) For transfer to the Rural Economic Development Fund	1,000	
Provisions:		
1. (a) Notwithstanding any other provision of law, the Director of Commerce is authorized to provide grants and loans in the 1990–91 fiscal year from the funds available in the Rural Economic Development Fund for disaster assistance projects, which shall be defined as both of the following:		
(1) Projects currently located in federal disaster assistance areas.		
(2) Projects receiving targeted disaster assistance under the federal Economic Development Act.		
(b) Grants and loans from these funds may be issued pursuant to the following:		
(1) Grants to local agencies shall be limited to six hundred forty thousand dollars ($640,000) per project in areas currently designated as federal disaster assistance areas. Grants to communities under this paragraph shall be limited to those projects receiving targeted disaster assistance under the federal Economic Development Act of 1969, Title IX. In determining the eligibility of a local agency for grant funding under this paragraph, the Rural Economic Development Infrastructure Panel shall additionally consider any fiscal demands created by the natural disaster. Grants awarded for disaster-related infrastructure shall be made notwithstanding the annual allocations percentage described in subpara-		

Item		Amount
	graph (B) of paragraph (1) of subdivision (a) of Section 15373.8 of the Government Code.	
	(2) Loans and grants may be made to a local agency for projects which meet the criteria specified in Section 15373.9 of the Government Code. Disaster Assistance Projects related infrastructure projects shall comply with those criteria specified in Section 15373.9 of the Government Code, as deemed necessary by the Rural Economic Infrastructure Panel. All projects shall be for the purpose of assisting in financing public improvements, including, but not limited to, all of the following: 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.	
2200-101-922—For local assistance, Department of Commerce, payable from the California Economic Development Grant and Loan Fund		3,200,000
Schedule:		
(a) 40-Local Development	3,200,000	
(b) 50-Small Business	4,000,000	
(c) Reimbursements	−4,000,000	
2200-111-001—For local assistance, Department of Commerce, Program 40		5,000,000
Provisions:		
1. It is the intent of the Legislature that no allocations be made from this item, or as otherwise provided by Chapter 1182 of the Statutes of 1989, for the purpose of the Olympic Training Facility loan unless the loan agreement between the Department of Commerce and the San Diego Olympic Training Center is renegotiated to obtain a letter of credit, collateral, or other negotiable form of security in the amount of indebtedness to the state. The terms of the agreement shall provide compounded interest at a rate comparable to the Pooled Money Investment Fund. The Department of Commerce may not authorize the allocation sooner than 30		

Item	Amount
days after notification in writing of the terms and conditions of the loan agreement to the chair of the committee in each house which considers appropriations and to the Chair of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chair of the joint committee, or his or her designee, may determine. The amount appropriated in this item shall be in lieu of the amount appropriated in Chapter 1182 of the Statutes of 1989.	
2200-111-147—For local assistance, Department of Commerce, payable from the California Unitary Fund	6,000,000
Schedule:	
(a) 40-Local Development 5,000,000	
(b) 50-Small Business 1,000,000	
Provisions:	
1. Of the amounts appropriated in this item, $3,000,000 shall be available for the Inner City Development Initiative for infrastructure improvements to promote job creation, commercial revitalization, economic development, business development, and business expansion.	
2200-495—Reversion, Department of Commerce. The specific amounts of the appropriations provided in the following citations shall revert to the General Fund as follows:	
(1) The unencumbered balance in the Rural Economic Development Fund, as of June 30, 1990.	
(2) The unencumbered balance of Chapter 1601, Statutes of 1985, Hollywood Exposition and Museum, as of June 30, 1990.	
2222-001-021—For loans to the State Assistance Fund for Enterprise, Business and Industrial Development Corporation to be disbursed by the State Controller pursuant to Sections 32820 through 32823 of the Financial Code, payable from the State Enterprise Loan Fund Account, General Fund	124,000
2225-001-147—For transfer by the Controller, as of June 30, 1990, and June 30, 1991, from the California Unitary Fund to the General Fund, the amount of unappropriated election fee revenue	(50,000,000)
Schedule:	
(a) June 30, 1990 ..... (35,000,000)	
(b) June 30, 1991 ..... (15,000,000)	

Item		Amount
2240-001-001—For support of Department of Housing and Community Development		6,805,000
Schedule:		
(a) 10-Codes and Standards Program	19,284,000	
(b) 20-Community Affairs Program	15,160,000	
(c) 30-Housing Policy Development Program	1,429,000	
(d) 50.01-Administration	9,228,000	
(e) 50.02-Distributed Administration	−9,153,000	
(f) Reimbursements	−6,330,000	
(g) Amount payable from the Mobilehome Park Revolving Fund (Item 2240-001-245)	−3,208,000	
(h) Amount payable from the Manufactured Home License Fee Account, General Fund (Item 2240-001-451)	−2,162,000	
(i) Amount payable from the Mobilehome Park Purchase Fund (Item 2240-001-530)	−371,000	
(j) Amount payable from the Rural Predevelopment Loan Fund (Item 2240-001-635)	−224,000	
(k) Amount payable from the Mobilehome-Manufactured Home Revolving Fund (Item 2240-001-648)	−12,314,000	
(*l*) Amount payable from the Self-Help Housing Fund (Item 2240-001-813)	−226,000	
(m) Amount payable from the Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−331,000	
(n) Amount payable from the Federal Trust Fund (Item 2240-001-890)	−1,738,000	
(o) Amount payable from the Housing Rehabilitation Loan Fund (Item 2240-001-929)	−758,000	
(p) Amount payable from the Homeownership Assistance Fund (Item 2240-001-936)	−259,000	
(q) Amount payable from the Rental Housing Construction Fund (Item 2240-001-938)	−777,000	

Item		Amount
(r) Amount payable from the Urban Predevelopment Loan Fund (Item 2240-001-980)	−271,000	
(s) Amount payable from the Emergency Housing and Assistance Fund (Item 2240-001-985)	−174,000	
Provisions:		
1. Of the amount appropriated in this item, $350,000 shall be transferred to the Farmworker Housing Grant Fund, Item 2240-601-927, for the purposes of the Farmworker Housing Program.		
2240-001-245—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Mobilehome Park Revolving Fund		3,208,000
2240-001-451—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Manufactured Home License Fee Account, General Fund		2,162,000
2240-001-530—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Mobilehome Park Purchase Fund		371,000
2240-001-635—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Rural Predevelopment Loan Fund		224,000
2240-001-648—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Mobilehome-Manufactured Home Revolving Fund		12,314,000
2240-001-813—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Self-Help Housing Fund		226,000
2240-001-890—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Federal Trust Fund		1,738,000
2240-001-929—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Housing Rehabilitation Loan Fund		758,000
2240-001-936—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Homeownership Assistance Fund		259,000

Item	Amount
2240-001-938—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Rental Housing Construction Fund	777,000
2240-001-980—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Urban Predevelopment Loan Fund	271,000
2240-001-985—For support of Department of Housing and Community Development, for payment to Item 2240-001-001, payable from the Emergency Housing and Assistance Fund	174,000
2240-101-001—For local assistance, Department of Housing and Community Development	6,900,000

Schedule:

(a) 20-Community Affairs 70,100,000

(b) Amount payable from the Federal Trust Fund (Item 2240-101-890) .. —63,200,000

Provisions:

1. Notwithstanding Section 50805 of the Health and Safety Code, the Department of Housing and Community Development shall award all of the funds available for local assistance in the Emergency Housing and Assistance Fund and all funds available through the department's interagency agreement with the State Department of Mental Health entered into pursuant to Chapter 36, Statutes of 1987, for emergency shelter operations.
2. The department may use all funds appropriated by this item for the California Self-Help Program, and all money available in the Self-Help Housing Fund for local assistance, for the purpose of (a) making technical assistance grants to public entities and nonprofit corporations which help low- and moderate-income families construct or rehabilitate their homes, and (b) providing mortgage assistance to eligible families engaged in self-help construction or rehabilitation of their homes who are not eligible for mortgage assistance under the Home Purchase Assistance Program.

   It is the intent of the Legislature that these funds shall be used, to the maximum extent possible, for program activities that are ineligible for bond financing under Proposition 77 or Proposition 84.

Item		Amount
2240-101-843—For local assistance, Department of Housing and Community Development, payable from the California Housing Trust Fund		(3,000,000)
Schedule:		
(a) For transfer to the Farmworker Housing Grant Fund (929)	(1,000,000)	
(b) For transfer to the Emergency Housing and Assistance Fund (985)	(1,500,000)	
(c) For transfer to the Special Deposit Fund—Office of Migrant Services (942)	(500,000)	
2240-101-890—For local assistance, Department of Housing and Community Development, for payment to Item 2240-101-001, payable from the Federal Trust Fund		63,200,000
2240-101-936—For local assistance, Department of Housing and Community Development, payable from the Homeownership Assistance Fund for transfer to the Housing Rehabilitation Loan Fund		(200,000)
Provisions:		
1. The funds in this item shall be used for the Deferred Payment Rehabilitation Loan Program for the purpose of mobilehome park rehabilitation.		
2240-490—Reappropriation, Department of Housing and Community Development. Notwithstanding any other provision of law, the amounts indicated below shall be reappropriated for the purposes indicated:		
(1) Chapter 112, Statutes of 1988, for mitigation of lead-based paint in migrant farmworker housing, is hereby reappropriated for the following programs:		
(a) Office of Migrant Services	500,000	
(b) Senior Citizen Shared Housing Program	500,000	
(c) California Self-Help Housing Program	500,000	
(d) Rural Communities Facilities Technical Assistance Program	200,000	
2290-001-217—For support of Department of Insurance, payable from the Insurance Fund		63,001,000

Item		Amount
	Schedule:	
	(a) 10-Regulation of Insurance Companies and Insurance Producers..	58,582,000
	(b) 20-Fraud Control.....	4,145,000
	(c) 30-Tax Collection and Audit	349,000
	(d) 40.01-Administration.....	16,949,000
	(e) 40.02-Distributed Administration .	−16,949,000
	(f) Amount payable from Insurance Fund (Item 2290-002-217)	−75,000
	Provisions:	
	1. Of the funds appropriated in this item, $2,792,000 shall be transferred to the Department of Aging for support of the Health Insurance Counseling and Advocacy Program.	
	2. Of the amount appropriated in this item, $665,000 shall be available for encumbrance by the Department of Insurance for development of a fraudulent claims depository data base as required by Chapter 1119 of the Statutes of 1989. This amount shall be available only upon approval of a feasibility study report by the Department of Finance.	
	3. Of the amount appropriated in this item, $1,784,830 shall be available for encumbrance by the Department of Insurance for implementation of Phase III of its office automation project. This amount shall be available only upon approval of an evaluation report of Phase II of the project by the Department of Finance.	
	4. All contracts for external consultants, professional services, and procurement of materials and data processing equipment executed by the Insurance Commissioner or the Department of Insurance after June 30, 1990, under this item shall contain a clause that provides for contract cancellation with 30 days' notice and without cause.	
	5. The Insurance Commissioner and the Department of Insurance shall not encumber and expend a combined amount between July 1, 1990, and December 31, 1990, which is more than one-half of the amount appropriated under this item.	
	6. For all contracts executed by the Insurance Commissioner or the Department of Insurance during the period of July 1, 1990 to December 31, 1990, not more than one-half of the total con-	

Item			Amount
tract amount, before contract amendments, shall be expended or authorized for expenditure by the department prior to January 1, 1991.			
2290-002-217—For support of the Consumer Advisory Panel in the Department of Insurance, for payment to Item 2290-001-217, payable from the Insurance Fund			75,000
2290-101-217—For local assistance, Department of Insurance, Program 20-Fraud Control, payable from the Insurance Fund			3,500,000
2320-001-317—For support of Department of Real Estate, payable from the Real Estate Fund			25,900,000
Schedule:			
(a) 10-Licensing and Education		6,305,000	
(b) 20-Regulatory and Recovery		15,304,000	
(c) 30-Subdivisions		4,839,000	
(d) 40.10-Administration		4,526,000	
(e) 40.20-Distributed Administration		−4,526,000	
(f) Reimbursements		−548,000	
2340-001-337—For support of Department of Savings and Loan, payable from the Savings Association Special Regulatory Fund			5,543,000
Schedule:			
(a) 100000-Personal Services		4,030,000	
(b) 300000-Operating Expenses and Equipment		1,560,000	
(c) Reimbursements		−47,000	
2600-001-042—For support of California Transportation Commission, for payment to Item 2600-001-046, payable from the State Highway Account, State Transportation Fund			151,000
2600-001-046—For support of California Transportation Commission, payable from the Transportation Planning and Development Account, State Transportation Fund			1,277,000
Schedule:			
(a) 10-Administration of California Transportation Commission		1,428,000	
(b) Amount payable from the State Highway Account, State Transportation Fund (Item 2600-001-042)		−151,000	

Item	Amount
2640-101-046—For local assistance, Special Transportation Programs, notwithstanding Section 99312 of the Public Utilities Code, for allocation by the Controller, payable from the Transportation Planning and Development Account, State Transportation Fund	43,250,000

Provisions:

1. Notwithstanding Sections 99313 and 99314 of the Public Utilities Code, not more than $20,500 of the amount appropriated by this item shall fund the federal match requirement of the Transit Management Assistance program, and not more than $52,000 of the amount appropriated by this item shall reimburse the Controller for expenditures for administration of State Transportation Assistance funds.
2. Notwithstanding any other provision of law, the amount appropriated by this item shall be reduced by the amount necessary to balance expenditures with revenues available in the Transportation Planning and Development Account. The amount of the reduction, as determined by the Department of Transportation, with the concurrence of the California Transportation Commission, shall be effective upon 30-day notice by the Director of Finance to the Joint Legislative Budget Committee and the chairpersons of the legislative fiscal committees hearing the Department of Transportation's budget. The Controller shall prorate the reduction against the fourth quarter transfer to the agencies specified in subdivisions (b) and (c) of Section 99312 of the Public Utilities Code.

2660-001-041—For support of Department of Transportation, for payment to Item 2660-001-042, payable from the Aeronautics Account, State Transportation Fund	3,956,000
2660-001-042—For support of Department of Transportation, payable from the State Highway Account, State Transportation Fund	1,001,281,000

Schedule:

(a) 10-Aeronautics	4,024,000	
(b) 20-Highway Transportation	1,498,853,000	
(1) 20.10.101-Flexible Congestion Relief	(164,769,000)	

Item		Amount
(2) 20.10.102-Interregional Road System	(38,218,000)	
(3) 20.10.103-Soundwalls	(13,260,000)	
(4) 20.10.204-Other Highway Construction	(6,059,000)	
(5) 20.10.205-Rehabilitation and Safety	(92,272,000)	
(6) 20.10.300-Traffic Systems Management	(8,733,000)	
(7) 20.10.400-State Support for Locally Funded Projects	(111,198,000)	
(8) 20.30-Local assistance	(11,713,000)	
(9) 20.40-Program development	(24,178,000)	
(10) 20.60-Administration	(214,720,000)	
(11) 20.70-Operations	(75,956,000)	
(12) 20.80-Maintenance	(501,561,000)	
(13) Bicycle Lane Account	(10,000)	
(14) Federal Trust Fund	(198,617,000)	
(15) Reimbursements	(37,589,000)	
(c) 30-Mass Transportation		78,797,000
(d) 40-Transportation Planning		16,753,000
(e) 50.01-Administration		204,930,000
(f) 50.02-Distributed Administration		−191,398,000
(g) Reimbursements		−54,338,000
(h) Amount payable from the Aeronautics Account, State Transportation Fund (Item 2660-001-041)		−3,956,000
(hx) Amount payable from the State Highway Account, State Transportation Fund (Item 2660-025-042)		−278,348,000

Item		Amount
(i)	Amount payable from the Bicycle Lane Account, State Transportation Fund (Item 2660-001-045)	−10,000
(j)	Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 2660-001-046)	−41,442,000
(*l*)	Amount payable from the Federal Trust Fund (Item 2660-001-890)	−232,584,000

Provisions:

1. For Program 20—Highway Transportation. Notwithstanding other provisions of law, up to 10 percent of any of the amounts scheduled within Item 2660-001-042 may be transferred to Item 2660-101-042 or Item 2660-301-042 only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.
2. For Program 20—Highway Transportation. Funds appropriated by this item shall be available for support of those projects which have been included in a State Transportation Improvement Program or Highway System Operation and Protection Plan adopted by the California Transportation Commission or the department's Traffic System Management Program.
3. For Program 20—Highway Transportation. Upon approval of the California Transportation Commission and the Department of Finance, the department shall notify the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee at least 20 days prior to spending funds to expand activities above budgeted levels or to implement a new activity not identified in the Budget, including any such expenditures to be funded through a transfer of money from other expenditure categories or programs, except in the case of emergency snow or storm damage work increases.
5. Notwithstanding Section 42273 of the Vehicle Code, the State Controller shall transfer funds from the Motor Vehicle Account, State Trans-

Item Amount

portation Fund to the State Highway Account, State Transportation Fund only upon order of the Department of Finance.

6. From funds appropriated by this item, the department may enter into interagency agreements with the Department of the California Highway Patrol to compensate that department for the cost of work performed by patrol officers at or near state highway construction projects so as to reduce the risk of occurrence of serious motor vehicle accidents.
7. For Program 10—Aeronautics. Notwithstanding the requirement of Chapter 1149 of the Statutes of 1989, $300,000 appropriated in this item from the Aeronautics Account will be available for contracting services to aid transportation planning agencies in their development of capital improvement programs.
8. For Program 20—Highway Transportation. The funding and personnel-year authorizations contained in this item are, in part, predicated on approval of local sales tax measures for transportation improvements anticipated to be voted on in November 1990. The measures and associated personnel-year and funding levels are listed below. Each amount listed below shall be available only for expenditure on projects included in the respective local sales tax measure expenditure plan and shall be administratively deleted from the approved 1990–91 budget if the local sales tax measure is not approved by the voters in November 1990. The resources intended for a measure that failed to be enacted by the voters may be used for expenditure on projects included in the respective local sales tax measure expenditure plan for measures which are enacted in November 1990, but are not included on the attached list, but shall be expended for these purposes not sooner than 20 days after notification of the necessity therefor is provided to the chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

Item Amount

Measure	Personnel-Years	Funding
Orange	29.8	$2,086,000
Santa Cruz	2.3	161,000
Marin	2.2	164,000
Sonoma	3.7	268,000
Los Angeles	55.1	4,426,000
Ventura	4.1	470,000
San Joaquin	8.6	628,000
Stanislaus	4.3	316,000
San Luis Obispo	2.3	161,000

9. For Program 20—Highway Transportation. All bids offered for the lease of state parking lots shall be sealed.
10. For Program 20—Highway Transportation. Of the amount appropriated in this item, $180,000 shall be available to the Department of Transportation to complete a policy report on the policy and fiscal implications of research and development of advanced highway/vehicle technologies and other technologies that could provide long-term solutions to urban traffic congestion.
11. The Director of Finance shall authorize the expenditure of $17,628,000 for advanced technology research projects not sooner than 30 days after notification in writing of the necessity therefor, and after submitting the report described in the Supplemental Report of the 1990–91 Budget Act on Research and Development of Advanced Technologies, to the chair of the committee in each house which considers appropriations, the Chair of the Joint Legislative Budget Committee, and the chair of the committee in each house which considers transportation policy.

2660-001-045—For support of Department of Transportation, for payment to Item 2660-001-042, payable from the Bicycle Lane Account, State Transportation Fund..... 10,000

2660-001-046—For support of Department of Transportation, for payment to Item 2660-001-042, payable from the Transportation Planning and Development Account, State Transportation Fund..... 41,442,000

Item Amount

Provisions:

1. For Program 30—Mass Transportation. $15,719,000 of the funds appropriated in this item shall be allocated by the California Transportation Commission pursuant to Section 99316 of the Public Utilities Code.

2660-001-890—For support of Department of Transportation, for payment to Item 2660-001-042, payable from the Federal Trust Fund 232,584,000

Provisions:

1. For Program 20—Highway Transportation. Notwithstanding other provisions of law, up to 10 percent of any of the amounts scheduled within Item 2660-001-890 may be transferred to Item 2660-101-890 or Item 2660-301-890 only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.
2. For Program 20—Highway Transportation. Funds appropriated in this item shall be available for support of those projects which have been included in a State Transportation Improvement Program or Highway System Operation and Protection Plan adopted by the California Transportation Commission or the department's Traffic System Management program.
3. For Program 20—Highway Transportation. For purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.
4. For Program 20—Highway Transportation. Federal funds may be received from any federal source, and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.

2660-011-041—For transfer by the State Controller from the Aeronautics Account, State Transportation Fund, to the Transportation Planning and Development Account, State Transportation Fund, as prescribed by Section 21682.5 of the Public Utilities Code ..... (30,000)

Item			Amount
2660-021-042—For transfer by the State Controller from the State Highway Account, State Transportation Fund, to the Transportation Planning and Development Account, State Transportation Fund, as prescribed by Section 194 of the Streets and Highways Code			(16,670,000)
2660-025-042—For support of Department of Transportation (Proposition 111), for payment to Item 2660-001-042, payable from the State Highway Account, State Transportation Fund			278,348,000
2660-101-042—For local assistance, Department of Transportation, payable from the State Highway Account, State Transportation Fund			32,600,000
Schedule:			
(a) 20-Highway Transportation	35,100,000		
(b) 30-Mass Transportation	81,295,000		
(c) Amount payable from State Highway Account (Item 2660-125-042)	-83,795,000		
Provisions:			
1. For Program 20—Highway Transportation. Notwithstanding other provisions of law, up to 10 percent of any amounts scheduled within Item 2660-101-042 may be transferred to Item 2660-001-042 or Item 2660-301-042 only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.			
2. For Program 30-Mass Transportation. Any funds in this item which have not been allocated by the California Transportation Commission pursuant to Sections 199 and 199.1 of the Streets and Highways Code by March 31, 1991, shall revert to the State Highway Account. The amount of this reversion shall not exceed $17,925,000. Funds allocated by the commission shall be available for or reallocation during the 1990–91, 1991–92, and 1992–93 fiscal years.			
2660-101-045—For local assistance, Department of Transportation, Program 20—Highway Transportation, payable from the Bicycle Lane Account, State Transportation Fund			660,000

Item			Amount
2660-101-046—For local assistance, Department of Transportation, payable from the Transportation Planning and Development Account, State Transportation Fund			30,335,000
Schedule:			
(a) 30-Mass Transportation		39,503,000	
(b) 40-Transportation Planning		4,032,000	
(c) Amount payable from the State Highway Account, State Transportation Fund (Item 2660-125-046)		−13,200,000	

Provisions:

1. For Program 30—Mass Transportation. The amount allocated in the 1990–91 fiscal year by the California Transportation Commission for Transit Capital Improvements shall be available for expenditure or reallocation by the California Transportation Commission during the 1990–91, 1991–92, and 1992–93 fiscal years.
2. For Program 30—Mass Transportation. Notwithstanding any other provision of law, the amount appropriated by this item shall be reduced by the amount necessary to balance expenditures with revenues available in the Transportation Planning and Development Account. The amount of the reduction, as determined by the Department of Transportation with the concurrence of the California Transportation Commission, shall be effective upon 30-day notice by the Director of Finance to the Joint Legislative Budget Committee and the chairpersons of the legislative fiscal committees hearing the department's budget. The California Transportation Commission shall ensure that allocations for Transit Capital Improvement projects are adjusted to accommodate the reduction.

2660-101-756—For local assistance, Department of Transportation, Program 30—Mass Transportation. Notwithstanding any other provision of law, any amount scheduled within Item 2660-301-756 may be transferred to this item for commuter and urban rail projects pursuant to the allocation of project funds by the California Transportation Commission. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.

Item	Amount
2660-101-890—For local assistance, Department of Transportation, payable from the Federal Trust Fund	282,984,000
Schedule:	
(b) 20-Highway Transportation 259,500,000	
(c) 30-Mass Transportation 14,584,000	
(d) 40-Transportation Planning 8,900,000	
Provisions:	
1. For Program 20—Highway Transportation. Notwithstanding other provisions of law, up to 10 percent of the amounts scheduled within Item 2660-101-890, may be transferred to Item 2660-001-890 or Item 2660-301-890 only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.	
2. For Program 20—Highway Transportation. For purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.	
3. For Program 20—Highway Transportation. Federal funds may be received from any federal source, and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.	
2660-111-041—For transfer by the State Controller from the Aeronautics Account, State Transportation Fund, to the Local Airport Loan Account, State Transportation Fund	(1,000,000)
2660-125-042—For local assistance, Department of Transportation (Proposition 111), for payment to Item 2660-101-042, payable from the State Highway Account, State Transportation Fund	83,795,000
2660-125-046—For local assistance, Department of Transportation (Proposition 111), for payment to Item 2660-101-046, payable from the State Highway Account, State Transportation Fund	13,200,000
2660-301-036—For capital outlay, Department of Transportation, Program 20—Highway Transportation, payable from the Special Account for Capital Outlay	800,000

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Provisions:

1. The amount appropriated in this item shall be available for the following:
   (a) $300,000, to be matched with State Highway Account funds, for installation of a traffic signal and the rerouting of the entrance road on Highway 1 at the California Men's Colony.
   (b) $300,000 for the construction of soundwalls along Interstate 405 between Victory Blvd. and Sherman Way in Los Angeles County.
   (c) $200,000 for installation of callboxes on two state highways in Santa Barbara County. This amount shall be available for capital outlay or local assistance.

2660-301-042—For capital outlay, Department of Transportation, payable from the State Highway Account, State Transportation Fund 97,144,000

Schedule:

(a) 20-Highway Transportation..... 1,540,122,000
   (1) 20.20.101 Flexible Congestion Relief ..... (976,413,000)
   (2) 20.20.102 Interregional Road System ..... (31,275,000)
   (3) 20.20.103 Soundwalls..... (6,500,000)
   (4) 20.20.204 Other Highway Construction ..... (13,101,000)
   (5) 20.20.205 Rehabilitation and Safety..... (207,307,000)
   (6) 20.20.300 Traffic Systems Management..... (55,526,000)
   (7) 20.25 State-Local Partnership.. (250,000,000)
(b) Reimbursements..... −769,078,000
(c) Amount payable from the State Highway Account, State Transportation Fund (Item 2660-325-042)..... −673,900,000

Provisions:

1. For Program 20—Highway Transportation. Notwithstanding other provisions of law, up to 10 percent of the amounts scheduled within Item 2660-301-042 may be transferred to Item 2660-001-042 or Item 2660-101-042 of this act only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transporta-

Item		Amount
	tion Commission and the Department of Finance.	
	2. For Program 20—Highway Transportation. Funds appropriated by this item shall be available for allocation by the California Transportation Commission to those projects which have been included in a State Transportation Improvement Program or Highway System Operation and Protection Plan adopted by the commission or the department's Traffic System Management Program.	
	3. For Program 20—Highway Transportation. For each capital outlay appropriation, the department shall determine for reversion the difference between the appropriation and the total amount needed for encumbered projects, encumbered right-of-way, and projects still to be scheduled for encumbrance against the appropriations. On or before October 1, 1990, the department shall submit to the Controller the estimated amounts to be reverted as of June 30, 1990, from the 1988–89 and 1989–90 fiscal year appropriations.	
	4. For Program 20—Highway Transportation. The department shall, no later than January 1, 1991, determine the amount necessary to fund the highway projects to be delivered in 1990–91 as approved by the California Transportation Commission, and report to the chairpersons of the Joint Legislative Budget Committee and the fiscal committees of the Legislature. The department shall, by June 30, 1991, revert any amount identified as not needed for these projects.	
	5. For Program 20—Highway Transportation. Notwithstanding other provisions of law, any amounts scheduled within this item for Flexible Congestion Relief projects, State-Local Transportation Partnership projects, and for Traffic Systems Management projects may be transferred to Item 2660-101-042 for local transportation projects pursuant to the allocation of project funds by the California Transportation Commission. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.	

Item	Amount
2660-301-756—For capital outlay, Department of Transportation, Program 30—Mass Transportation, payable from the Passenger Rail and Clean Air Bond Fund of 1990	300,000,000
Provisions:	
1. At least 15 percent of the money in the fund shall be used for intercity rail purposes and shall be equitably expended on intercity rail corridors based on the relative population served by each corridor.	
2660-301-890—For capital outlay, Department of Transportation, payable from the Federal Trust Fund	720,784,000
Schedule:	
(a) 20-Highway Transportation..... 715,784,000	
(b) 30-Mass Transportation..... 5,000,000	
Provisions:	
1. For Program 20—Highway Transportation. Notwithstanding other provisions of law, up to 10 percent of the amounts scheduled within Item 2660-301-890, may be transferred to Item 2660-001-890 or Item 2660-101-890 only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.	
2. For Program 20—Highway Transportation. Funds appropriated by this item shall be available for allocation by the California Transportation Commission to those projects which have been included in a State Transportation Improvement Program or Highway System Operation and Protection Plan adopted by the commission or the department's Traffic System Management program.	
3. For Program 20—Highway Transportation. For purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.	
4. For Program 20—Highway Transportation. Federal funds may be received from any federal source, and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.	

Item	Amount
5. For Program 20—Highway Transportation. For each capital outlay appropriation, the department shall determine for reversion the difference between the appropriation and the total amount needed for encumbered projects, encumbered right-of-way and projects still to be scheduled for encumbrance against the appropriations. On or before October 1, 1990, the department shall submit to the State Controller the estimated amounts to be reverted as of June 30, 1990, from the 1988–89 and 1989–90 fiscal year appropriations.	
6. For Program 20—Highway Transportation. The department shall, no later than January 1, 1991, determine the amount necessary to fund the highway projects to be delivered in 1990–91 as approved by the California Transportation Commission, and report to the chairpersons of the Joint Legislative Budget Committee and the fiscal committees of the Legislature. The department shall revert by June 30, 1991, any amount identified to be not needed for these projects.	
7. For Program 20—Highway Transportation. The Department of Transportation shall identify state and local bicycle capital outlay projects which are eligible for funding from federal funds available for these purposes without a state or local matching requirement pursuant to Section 217 of Title 23 of the United States Code. The department shall apply for federal funding for all eligible projects identified by the department or local agencies, up to the maximum amount available, which can be made ready for funding prior to October 1, 1991. These funds shall be available for transfer to Item 2660-101-890 to the extent necessary or convenient to carry out the bicycle capital outlay projects.	
2660-302-046—For capital outlay, Department of Transportation, payable from the Transportation Planning and Development Account, State Transportation Fund	0
Schedule:	
(a) 30-Mass Transportation	12,000,000
(b) Reimbursements	−12,000,000

Item	Amount
2660-325-042—For capital outlay, Department of Transportation (Proposition 111), for payment to Item 2660-301-042, payable from the State Highway Account, State Transportation Fund	673,900,000
2660-399-042—For the Department of Transportation, for final cost accounting of projects funded by both state and federal funds for which appropriations have expired, for state operations, local assistance, or capital outlay, payable from the State Highway Account, State Transportation Fund	5,000,000

2660-490—Notwithstanding any other provisions of law, the unliquidated encumbrances of the capital outlay appropriations provided in the following citations are available for expenditure until June 30, 1991. In addition, the amounts specified below are appropriated in augmentation of these items for the same period and purpose. The funds continued for expenditure from the following citations shall be available for allocation by the California Transportation Commission to any project whether or not included in an adopted State Transportation Improvement Program:

042—For Program 20—Highway Transportation, payable from the State Highway Account, State Transportation Fund

(1) Item 2660-301-042, Budget Act of 1984—$2,000,000

(2) Item 2660-301-042, Budget Act of 1987—$10,000,000

890—For Program 20—Highway Transportation, payable from the Federal Trust Fund

(1) Item 2660-301-890, Budget Act of 1984—$6,000,000

(2) Item 2660-301-890, Budget Act of 1985—$8,000,000

(3) Item 2660-301-890, Budget Act of 1986—$10,000,000

(4) Item 2660-301-890, Budget Act of 1987—$10,000,000

2660-491—Reappropriation—Department of Transportation, Program 20—Highway Transportation. Notwithstanding any other provisions of law, and in accordance with subdivision (c) of Section 16304 of the Government Code, the unliquidated encumbrances for the appropriations provided in the following citations, are reappropriated without regard to fiscal year, to enable continuing liquidation

Item Amount

of these encumbrances, and to allow project savings to be available for local assistance projects previously funded. The unencumbered balance shall not be available for encumbrance.

042—State Highway Account

(1) Item 2660-101-042, Budget Act of 1988

045—Bicycle Lane Account

(1) Item 2660-101-045, Budget Act of 1988

046—Transportation Planning and Development Account

(1) Item 2660-101-046, Budget Act of 1985

2660-492—Reappropriation—Department of Transportation. Notwithstanding any other provision of law, the unencumbered and unliquidated balances, or the portion thereof as specified in this item, as of June 30, 1990, of the appropriations in the following citations, are reappropriated for the purposes provided for in those appropriations and shall be available for expenditure until June 30, 1991, except as otherwise specified:

164—Outer Continental Shelf Land Act, Section 8(g) Revenue Fund

(1) Chapter 1440, Statutes of 1985 4,431,000

046—Transportation Planning and Development Account

(1) Item 2660-101-046, Budget Act of 1985

(2) Item 2660-301-046, Budget Act of 1985

890—Federal Trust Fund

(1) Item 2660-001-890, Budget Act of 1989

2660-493—Reappropriation—Department of Transportation. Notwithstanding any other provision of law, the unencumbered and unliquidated balances, or portion thereof as specified in this item, as of June 30, 1990, of the appropriations in the following citations, are reappropriated for the purposes provided for in those appropriations and shall be available for expenditure until September 28, 1991, except as otherwise specified:

042—State Highway Account

(1) Chapter 1472, Statutes of 1988 6,717,786

2660-494—Reappropriation—Department of Transportation. Notwithstanding any other provision of law, the unencumbered and unliquidated balances, or the portion thereof as specified in this item, as of June 30, 1990, of the appropriations in the following citations, are reappropriated for the purposes provided for in those appropriations and shall be

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available for expenditure until June 30, 1991, except as otherwise specified:		
429—Local Jurisdiction Energy Assistance Account		
(1) Chapter 1343, Statutes of 1986		
2700-001-044—For support of Office of Traffic Safety, payable from the Motor Vehicle Account, State Transportation Fund		309,000
Schedule:		
(a) 10-California Traffic Safety	7,346,000	
(b) Amount payable from the Federal Trust Fund (Item 2700-001-890)	−7,017,000	
(c) Reimbursements	−20,000	
2700-001-890—For support of Office of Traffic Safety, for payment to Item 2700-001-044, payable from the Federal Trust Fund, not subject to the provisions of Section 28.00		7,017,000
2700-101-890—For local assistance, Office of Traffic Safety, payable from the Federal Trust Fund, not subject to the provisions of Section 28.00		7,363,000
2720-001-044—For support of Department of the California Highway Patrol, payable from the Motor Vehicle Account, State Transportation Fund		553,172,086
Schedule:		
(a) 10-Traffic Management	508,281,086	
(b) 20-Regulation and Inspection	49,476,000	
(c) 30-Vehicle Ownership Security	11,852,000	
(d) 40.01-Administration	112,743,000	
(e) 40.02-Distributed Administration	−112,743,000	
(f) Reimbursements	−9,819,000	
(g) Amount payable from the California Motorcyclist Safety Fund (Item 2720-001-840)	−1,672,000	
(h) Amount payable from the Asset Forfeiture Fund (Item 2720-001-847)	−2,140,000	
(i) Amount payable from the Federal Trust Fund (Item 2720-001-890)	−2,806,000	
2720-001-840—For support of Department of the California Highway Patrol, for payment to Item 2720-001-044, payable from the California Motorcyclist Safety Fund		1,672,000
2720-001-847—For support of Department of the California Highway Patrol, for payment to Item 2720-001-044, payable from the Asset Forfeiture Fund		2,140,000

Item		Amount
2720-001-890—For support of Department of the California Highway Patrol, for payment to Item 2720-001-044, payable from the Federal Trust Fund		2,806,000
2720-011-044—For payments of deficiencies in appropriations for the Department of the California Highway Patrol, Program 97 Unallocated, which may be authorized by the Director of Finance, with the consent of the Governor, payable from the Motor Vehicle Account, State Transportation Fund		(2,000,000)
Provisions:		
1. The Director of Finance shall report allocations from this item in the same manner as required for reporting allocations from Item 9840-001-494 of this act.		
2720-021-044—For Department of the California Highway Patrol, for advance authority for the department to incur automotive equipment purchase obligations in an amount not to exceed $5,000,000 during the 1990–91 fiscal year, for delivery beginning in the 1991–92 fiscal year, payable from the Motor Vehicle Account, State Transportation Fund.		(5,000,000)
2720-301-044—For capital outlay, Department of the California Highway Patrol, payable from the Motor Vehicle Account, State Transportation Fund ..		1,839,000
Schedule:		
(1) 50.01.001-Minor Projects	348,000	
(2) 50.11.042-Sacramento: New Logistical Facility (West Sacramento Site)—Preliminary plans	292,000	
(3) 50.18.108-Susanville: Purchase of Leased Facility—Acquisition	1,179,000	
(6) 50.90.900-Statewide: Property Options and Appraisals—Planning ...	20,000	
Provisions:		
1. The funds appropriated in category (6) shall be available for expenditure only during the 1990–91 fiscal year and shall be used only in connection with projects which are to be included in the Budget submitted by the Governor for the 1991–92 fiscal year.		
2. The Department of Industrial Relations shall determine if workers were paid prevailing wages as required by state law and as stipulated in the contract for the lease with purchase option facility at Susanville. If the department determines that workers were not paid prevailing		

Item		Amount
wages as required by state law and stipulated in the contract, the Department of General Services shall request an opinion from the Attorney General's office as to how to proceed to ensure the reimbursement of the workers. The Departments of Industrial Relations, General Services, and the California Highway Patrol shall coordinate efforts and proceed pursuant to the Attorney General's advice on how best to reimburse the workers. It is the intent of the Legislature that the proposed action not interfere with the state's lease or purchase of the facility. By December 1, 1990, the Department of Industrial Relations shall advise the Legislature on its determination, and the Departments of General Services and the California Highway Patrol shall advise the Legislature on the actions taken to meet this requirement.		
2720-490—Reappropriation, California Highway Patrol. The balance available in the support appropriation provided in the following citation is available for encumbrance and expenditure until June 30, 1991: 044—Motor Vehicle Account, State Transportation Fund.		
Program 10-Traffic Management:		
(1) Item 2720-001-044, Budget Act of 1989, $148,000.		
2740-001-001—For support of Department of Motor Vehicles, for payment to Item 2740-001-044		64,000
Provisions:		
1. The funds appropriated by this item are for the Anatomical Donor Designation program.		
2740-001-044—For support of Department of Motor Vehicles, payable from the Motor Vehicle Account, State Transportation Fund.....		298,198,000
Schedule:		
(a) 11-Vehicle/Vessel Identification and Compliance.....	251,479,000	
(b) 22-Driver Licensing and Personal Identification.....	123,509,000	
(c) 25-Driver Safety.....	60,116,000	
(d) 32-Occupational Licensing and Investigative Services.....	26,517,000	
(e) 35-New Motor Vehicle Board	1,165,000	
(f) 41.01-Administration.....	53,764,000	
(g) 41.02-Distributed Administration .	—53,764,000	
(h) Reimbursements.....	—10,718,000	

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(i) Amount payable from the General Fund (Item 2740-001-001)	−64,000	
(j) Amount payable from the New Motor Vehicle Board Account (Item 2740-001-054)	−1,165,000	
(k) Amount payable from the Motor Vehicle License Fee Account, Transportation Tax Fund (Item 2740-001-064)	−148,660,000	
(*l*) Amount payable from the Harbors and Watercraft Revolving Fund (Item 2740-001-516)	−3,564,000	
(m) Amount payable from the Federal Trust Fund (Item 2740-001-890)	−417,000	

Provisions:

1. Pursuant to Section 14669 of the Government Code, the Director of General Services, acting on behalf of the Department of Motor Vehicles, with the approval of the Department of Finance, may enter into a lease-purchase agreement or a lease with option to purchase, with an initial option purchase price over $2,000,000 to provide adequate office and parking facilities for field officers in Roseville, Milpitas, Lakewood, and Vista.

2740-001-054—For support of Department of Motor Vehicles, for payment to Item 2740-001-044, payable from the New Motor Vehicle Board Account, State Transportation Fund 1,165,000

2740-001-064—For support of Department of Motor Vehicles, for payment to Item 2740-001-044, payable from the Motor Vehicle License Fee Account, Transportation Tax Fund 148,660,000

2740-001-516—For support of Department of Motor Vehicles, for payment to Item 2740-001-044, payable from the Harbors and Watercraft Revolving Fund .. 3,564,000

Provisions:

1. The funds appropriated by this item are for undocumented vessel registration and fee collection.

2740-001-890—For support of Department of Motor Vehicles, for payment to Item 2740-001-044, payable from the Federal Trust Fund 417,000

2740-011-044—For payment of deficiencies in appropriations for the Department of Motor Vehicles which may be authorized by the Director of Fi-

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nance, with the consent of the Governor, payable from the Motor Vehicle Account, State Transportation Fund		(1,000,000)
Provisions:		
1. The Director of Finance shall report allocations from this appropriation in the same manner as required for reporting allocations from Item 9840-001-494 of this act.		
2740-301-044—For capital outlay, Department of Motor Vehicles, payable from the Motor Vehicle Account, State Transportation Fund		591,000
Schedule:		
(1) 71.01.000-Minor Projects	444,000	
(2) 71.03.013-Sacramento: Headquarters Space Remodeling—Preliminary plans and working drawings..	147,000	
2740-490—Reappropriation, Department of Motor Vehicles. The balances of the appropriations provided in the following citations are reappropriated for the purposes (and subject to the limitations unless otherwise specified) provided for in the appropriations:		
044—Motor Vehicle Account, State Transportation Fund.		
(1) Item 2740-301-044(2), Budget Act of 1987—71.03.011—Sacramento Headquarters—Site Preparation for Computer Replacement —Construction.		
(2) Item 2740-301-044(2), Budget Act of 1989—71.03.012—Physical Security System and Public Access Control—Working drawings and construction.		
Provisions:		
1. The amount reappropriated by schedule (1) shall be limited to $846,000, based on the cost estimate for the reduced scope of the project.		
2780-001-683—For support of Stephen P. Teale Data Center, Business, Transportation and Housing Agency, payable from the Stephen P. Teale Data Center Revolving Fund		85,888,000
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the data center in excess of the amount appropriated not sooner than 30 days after noti-		

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	fication in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
	RESOURCES	
3110-001-001—To the Resources Agency, Special Resources Program, Program 30—Sea Grant Program, for grants to public and private higher education for use as a maximum of two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966..		525,000
	Provisions:	
	1. The amount appropriated in this item is in lieu of any amount which would otherwise be received pursuant to Section 6217 of the Public Resources Code.	
3110-001-140—To the Resources Agency, Special Resources Program, Program 30-Sea Grant Program, for a grant to the University of California for support of the Sea Grant marine advisory program, payable from the California Environmental License Plate Fund.....		100,000
3110-101-001—For local assistance, Special Resources Program, Program 10—Tahoe Regional Planning Agency		896,000
	Provisions:	
	1. All funds appropriated in this item shall be provided to the Tahoe Regional Planning Agency within 30 days after the effective date of this act, in accordance with Section 66801 of the Government Code.	
3110-101-140—For local assistance, Special Resources Program, Program 10—Tahoe Regional Planning Agency, payable from the California Environmental License Plate Fund.....		565,000
	Provisions:	
	1. The Tahoe Regional Planning Agency shall use the funds appropriated by this item in the following manner: $280,000 to continue the existing water and air quality monitoring effort; $40,000 to continue the community planning process; $50,000 to implement the Individual	

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Parcel Evaluation System, $68,000 to continue the development of the Tahoe Environmental Geographic Information System; $67,000 to evaluate the progress towards meeting environmental thresholds and standards pursuant to the Tahoe Regional Plan; and, $60,000 for mapping stream environment zones and floodplains.			
2. All funds appropriated in this item shall be provided to the Tahoe Regional Planning Agency within 30 days after the effective date of this act, in accordance with Section 66801 of the Government Code.			
3125-001-001—For support of California Tahoe Conservancy			819,000
Schedule:			
(a) 10-Tahoe Conservancy		1,748,000	
(b) Reimbursements		−22,000	
(c) Amount payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund (Item 3125-001-164)		−34,000	
(d) Amount payable from the Tahoe Conservancy Fund (Item 3125-001-568)		−120,000	
(e) Amount payable from the Lake Tahoe Acquisitions Fund (Item 3125-001-720)		−753,000	
3125-001-164—For support of California Tahoe Conservancy, for payment to Item 3125-001-001, payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund			34,000
3125-001-568—For support of California Tahoe Conservancy, for payment to Item 3125-001-001, payable from the Tahoe Conservancy Fund			120,000
Provisions:			
1. Of this amount, pursuant to Section 66908.3 of the Government Code, the conservancy shall pay to the County of Placer, $30,000.			
2. Fifty percent (50%) of the amount appropriated under Provision 1 above shall be used by the County of Placer for soil erosion control projects in the Lake Tahoe region, as defined in Section 66905.5 of the Government Code.			
3125-001-720—For support of California Tahoe Conservancy, for payment to Item 3125-001-001, payable from the Lake Tahoe Acquisitions Fund			753,000

Item	Amount
3125-011-235—For transfer to the Habitat Conservation Fund, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund	(200,000)
Provisions:	
1. The funds transferred by this item shall be used for purposes consistent with the requirements of the Public Resources Account, Cigarette and Tobacco Products Surtax Fund, and the Habitat Conservation Fund.	
3125-101-140—For local assistance, California Tahoe Conservancy, Program 10—Tahoe Conservancy, for soil erosion control grants, payable from the California Environmental License Plate Fund.....	1,000,000
Provisions:	
1. Notwithstanding any other provision of law, the unliquidated encumbrance, as of June 30, 1991, shall be available for expenditure until June 30, 1994.	
3125-301-164—For capital outlay, California Tahoe Conservancy, payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund.....	1,000,000
Schedule:	
(a) 50.30.002-Capital outlay, pursuant to Title 7.42 (commencing with Section 66905) of the Government Code..... 1,201,000	
(b) Reimbursements..... —201,000	
Provisions:	
1. The acquisition of real property or interests with funds appropriated by this item is not subject to the Property Acquisition Law when the value is less than $250,000 and, therefore, is not subject to Public Works Board approval.	
2. The amount appropriated by this item is available for expenditure for capital outlay or for grants. Expenditures of funds for grants to public agencies and grants to nonprofit organizations, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from Public Works Board Review.	
3125-301-235—For capital outlay, California Tahoe Conservancy, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund.....	500,000
Schedule:	
(1) 50.30.002-Capital outlay, pursuant to Title 7.42 (commencing with	

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Section 66905) of the Government Code.....	500,000	

Provisions:

1. The acquisition of real property or interests with funds appropriated by this item is not subject to the Property Acquisition Law when the value is less than $250,000 and, therefore, is not subject to Public Works Board approval.
2. The amount appropriated by this item is available for expenditure for capital outlay or for grants. Expenditures of funds for grants to public agencies and grants to nonprofit organizations, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from Public Works Board review.
3. The funds appropriated in this item are available only to supplement existing conservancy programs to protect, restore, enhance, or maintain fish, waterfowl, and wildlife habitat in accordance with subparagraph (A) of paragraph (5) of subdivision (b) of Section 30122 and Section 30125 of the Revenue and Taxation Code.

3125-301-262—For capital outlay, California Tahoe Conservancy, payable from the Habitat Conservation Fund..... 500,000

Schedule:

(1) Acquisition, restoration, and enhancement of habitat.....	500,000	

Provisions:

1. Of the funds appropriated in this item, $200,000 shall be used for purposes consistent with the requirements of the Public Resources Account, Cigarette and Tobacco Products Surtax Fund, and the Habitat Conservation Fund, and $200,000 shall be used for purposes consistent with the requirements of the Unallocated Account, Cigarette and Tobacco Products Surtax Fund, and the Habitat Conservation Fund.
2. The acquisition of real property or interests with funds appropriated by this item is not subject to the Property Acquisition Law when the value is less than $250,000 and, therefore, is not subject to Public Works Board approval.
3. The amount appropriated by this item is available for expenditure for capital outlay or for grants. Expenditures of funds for grants to public agencies and grants to nonprofit organiza-

Item		Amount
tions, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from Public Works Board review.		
3125-301-720—For capital outlay, California Tahoe Conservancy, payable from the Lake Tahoe Acquisitions Fund		5,000,000
Schedule:		
(1) 50.20.002-Land acquisition pursuant to subdivisions (a), (b) and (c) of Section 66957 of the Government Code	5,000,000	
Provisions:		
1. The acquisition of real property or interests with funds appropriated by this item is not subject to the Property Acquisition Law when the value is less than $250,000 and, therefore, is not subject to Public Works Board approval.		
2. The amount appropriated by this item is available for expenditure for capital outlay or for grants. Expenditures of funds for grants to public agencies and grants to nonprofit organizations, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from Public Works Board review.		
3125-302-235—For capital outlay, California Tahoe Conservancy, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		500,000
Schedule:		
(1) 50.30.002-Capital outlay, pursuant to Title 7.42 (commencing with Section 66905) of the Government Code	500,000	
Provisions:		
1. The acquisition of real property or interests with funds appropriated by this item is not subject to the Property Acquisition Law when the value is less than $250,000 and, therefore, is not subject to Public Works Board approval.		
2. The amount appropriated by this item is available for expenditure for capital outlay or for grants. Expenditures of funds for grants to public agencies and grants to nonprofit organizations, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from Public Works Board review.		
3. The funds appropriated in this item are avail-		

Item Amount

able only to supplement existing Conservancy programs to enhance state and local park and recreation resources in accordance with subparagraph (B) of paragraph (5) of subdivision (b) of Section 30122 and Section 30125 of the Revenue and Taxation Code.

3125-490—Reappropriation, California Tahoe Conservancy.

The balance of the appropriation provided in the following citation is reappropriated for the purposes provided in that appropriation, and shall be available for encumbrance and expenditure until June 30, 1991:

864—Lake Tahoe Assistance Fund

(1) Chapter 1602, Statutes of 1985, Section 5 (b)

3340-001-001—For support of California Conservation Corps 41,547,000

Schedule:

(a) 10-Training and Work Program ...	57,918,000
(b) 20.01-Administration	4,611,000
(c) 20.02-Distributed Administration .	−4,611,000
(d) Reimbursements	−10,268,000
(e) Amount payable from the Energy Resources Programs Account, General Fund (Item 3340-001-465)	−5,890,000
(f) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3340-001-235)	−213,000

Provisions:

1. Of the amount appropriated in this item, $304,000 shall be for the purchase of a computer system which will allow the California Conservation Corps to automate data collection and reporting activities. The computer system may only be purchased after approval of a feasibility study report by the Office of Information Technology.

3340-001-235—For support of California Conservation Corps, for payment to Item 3340-001-001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund 213,000

Item			Amount
3340-001-465—For support of California Conservation Corps, for payment to Item 3340-001-001, payable from the Energy Resources Programs Account, General Fund			5,890,000
3340-301-036—For capital outlay, California Conservation Corps, payable from the Special Account for Capital Outlay			65,000
Schedule:			
(a) 30.10.999-Minor Projects		65,000	
3360-001-033—For support of State Energy Resources Conservation and Development Commission, for payment to Item 3360-001-465, payable from the State Energy Conservation and Assistance Account, General Fund			7,834,000
Provisions:			
1. Notwithstanding Section 16304.1 of the Government Code, the funds appropriated by this item shall be available for liquidation of encumbrances until June 30, 1994.			
3360-001-044—For support of State Energy Resources Conservation and Development Commission, for payment to Item 3360-001-465, payable from the Motor Vehicle Account, State Transportation Fund.			101,000
3360-001-429—Notwithstanding any other provisions of law, the commission may make energy conservation loans to school districts with less than 2,501 average daily attendance at an interest rate no higher than the average rate earned in the prior year by the Pooled Money Investment Account, nor at a rate lower than 2 percent less than that average rate.			
3360-001-465—For support of State Energy Resources Conservation and Development Commission, payable from the Energy Resources Programs Account, General Fund			34,766,368
Schedule:			
(a) 100000-Personal Services		24,406,368	
(b) 300000-Operating Expenses and Equipment		12,272,000	
(c) Special Items of Expense		42,257,520	
(1) Energy Technologies Research, Development and Demonstration projects	1,656,000		
(2) Siting and Permit assistance	300,000		

Item		Amount
(3) Energy Conservation Assistance Loans	7,685,000	
(4) Solar Energy and Energy Conservation Bank	150,000	
(5) Export Development Project	250,000	
(6) Technology Export Conference	50,000	
(7) Clean Fuel Demonstration	390,000	
(8) Export Trade and Development Grant	1,000,000	
(9) Certification of compliance options	300,000	
(10) Local Jurisdiction Support	1,935,000	
(11) Schoolbus Demonstration Program	28,348,520	
(12) Intervenor Award Programs	118,000	
(13) Weatherization Program	75,000	
(d) Reimbursements		−435,000
(e) Amount payable from State Energy Conservation Assistance Account (Item 3360-001-033)		−7,834,000
(f) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 3360-001-044)		−101,000
(g) Amount payable from the Energy Technologies Research, Development and Demonstration Account (Item 3360-001-479)		−1,310,000
(h) Amount payable from Petroleum Violation Escrow Account (Item 3360-001-853)		−495,000
(i) Amount payable from the Federal Trust Fund (Item 3360-001-890)		−2,930,000
(j) Amount payable from the Clean Fuels Account, General Fund (Chapter 1340, Statutes of 1986)		−50,000

Item		Amount
(k)	Amount payable from the Local Jurisdiction Energy Assistance Account, General Fund (Chapter 1343, Statutes of 1986)	−2,105,000
(*l*)	Amount payable from Petroleum Violation Escrow Account (Chapter 1338, Statutes of 1986)	−40,000
(m)	Amount payable from Petroleum Violation Escrow Account (Chapter 1341, Statutes of 1986)	−50,000
(n)	Amount payable from Petroleum Violation Escrow Account (Chapter 1426, Statutes of 1988)	−53,000
(o)	Amount payable from Katz Schoolbus Fund (Chapter 1426, Statutes of 1988)	−20,000,000
(p)	Amount payable from Petroleum Violation Escrow Account (Chapter 1436, Statutes of 1988)	−118,000
(q)	Amount payable from Katz Schoolbus Fund (Item 3360-001-854)	−8,348,520
(r)	Amount payable from Energy Resources Programs Account, General Fund (Public Resources Code Section 25402.1)	−300,000

Provisions:

1. Of the funds appropriated in this item, $111,000 and two personnel years shall be available to match $1,000,000 in federal funds for the California Export Trade and Development Grant. This appropriation of state funds is contingent on receipt of written confirmation from the federal government of its intent to award the commission the $1,000,000 in federal funds for this purpose.
2. Of the amount appropriated in this item, $75,000 is for transfer by the State Controller to the Department of Economic Opportunity (8915-101-890) to provide weatherization services to the Yurok Tribe located in Humboldt and Del Norte Counties.

3360-001-479—For support of State Energy Resources Conservation and Development Commission, for payment to Item 3360-001-465, payable from the Energy Technologies Research, Development and Demonstration Account for purposes of funding

Item	Amount
loans and grants to provide a variety of contract research projects	1,310,000
Provisions:	
1. Notwithstanding Section 16304.1 of the Government Code, the funds appropriated by this item shall be available for liquidation of encumbrances until June 30, 1994.	
3360-001-853—For support of State Energy Resources Conservation and Development Commission, for payment to Item 3360-001-465, payable from Petroleum Violation Escrow Account	495,000
3360-001-854—For support of the State Energy Resources and Development Commission, payable from the Katz Schoolbus Fund created by Section 17911 of the Education Code, for payment to Item 3360-001-465	8,348,520
3360-001-890—For support of State Energy Resources Conservation and Development Commission, for payment to Item 3360-001-465, payable from the Federal Trust Fund	2,930,000
3360-011-031—State Energy Resources Conservation and Development Commission. Notwithstanding any other provision of law, the State Controller shall transfer the unencumbered balance of the State Agricultural and Forestry Residue Utilization Account, General Fund, to the General Fund. Any subsequent contract repayments pursuant to Chapter 7.3 (commencing with Section 25630) of Division 15 of the Public Resources Code shall be transferred to the General Fund	(10,000)
3360-011-465—For transfer by the State Controller from the Energy Resources Programs Account (465) to the Energy Technologies Research, Development, and Demonstration Account (479) for purposes of funding loans and grants to develop a variety of contract research projects	(1,000,000)
3360-011-853—For transfer by the State Controller from the Petroleum Violation Escrow Account (853) to the Katz Schoolbus Fund (854) created by Section 17911 of the Education Code	(8,348,520)
3360-021-465—State Energy Resources Conservation and Development Commission. Notwithstanding any other provision of law, the State Controller shall transfer $1,580,000 from the Energy Resources Programs Account to the General Fund	(1,580,000)
3360-101-497—For local assistance, State Energy Resources Conservation and Development Commis-	

Item			Amount
sion, pursuant to the provisions of Public Resources Code Section 3822, payable from the Local Government Geothermal Resources Revolving Subaccount, General Fund			3,643,000
Provisions:			
1. Notwithstanding Section 16304.1 of the Government Code, the funds appropriated by this item shall be available for liquidation of encumbrances until June 30, 1994.			
3360-495—The unencumbered balance in Item 3360-001-479, Budget Act of 1989 shall revert to the General Fund.			
3380-001-226—For support of California Integrated Waste Management Board, payable from the Tire Recycling Management Fund			3,288,000
Schedule:			
(a) 100000-Personal Services		208,000	
(b) 300000-Operating Expenses and Equipment		3,080,000	
3380-001-387—For support of California Integrated Waste Management Board, payable from the Integrated Waste Management Account, Solid Waste Management Fund			26,810,000
Schedule:			
(a) 100000-Personal Services		14,256,000	
(b) 300000-Operating Expenses and Equipment		12,554,000	
3380-001-435—For support of California Integrated Waste Management Board, payable from the Solid Waste Disposal Site Cleanup and Maintenance Account, Solid Waste Management Fund			12,767,000
Schedule:			
(a) 100000-Personal Services		1,120,000	
(b) 300000-Operating Expenses and Equipment		11,647,000	
3380-001-441—For support of California Integrated Waste Management Board, payable from the Waste Management Incentive Account, General Fund, for expenditure for the purposes of Public Resources Code Section 48009. Funds provided in this item not encumbered as of June 30, 1991 shall revert to the General Fund.			4,784,000
3380-002-435—For transfer by the State Controller from the Solid Waste Disposal Site Cleanup and Maintenance Account, Solid Waste Management Fund, to the General Fund as of June 30, 1990, for payment of principal and interest of the loan au-			

Item		Amount
thorized by Chapter 1319, Statutes of 1987		(2,500,000)
3380-011-001—For transfer by the State Controller to the Waste Management Incentive Account, General Fund, for expenditure for the purposes of Public Resources Code Section 48009		(4,784,000)
3380-101-435—For local assistance, California Integrated Waste Management Board, payable from the Solid Waste Disposal Site Cleanup and Maintenance Account, Solid Waste Management Fund		5,500,000
3400-001-001—For support of State Air Resources Board		2,961,000
Schedule:		
(a) 10-Air Pollution Control	79,801,000	
(b) 20-Environmental Affairs	3,814,000	
(c) Reimbursements	−4,432,000	
(d) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 3400-001-044)	−49,461,000	
(e) Amount payable from the Air Pollution Control Fund (Item 3400-001-115)	−8,896,000	
(f) Amount payable from the California Environmental License Plate Fund (Item 3400-001-140)	−1,104,000	
(g) Amount payable from Outer Continental Shelf Land Act, Section 8(g) Revenue Fund (Item 3400-001-164)	−1,850,000	
(h) Amount payable from the Vehicle Inspection and Repair Fund (Item 3400-001-421)	−8,818,000	
(i) Amount payable from the Air Toxics Inventory and Assessment Account, General Fund (Item 3400-001-434)	−2,802,000	
(j) Amount payable from the Energy Resources Programs Account, General Fund (Item 3400-001-465)	−203,000	
(k) Amount payable from the Federal Trust Fund (Item 3400-001-890)	−3,088,000	
3400-001-044—For support of State Air Resources Board, for payment to Item 3400-001-001, payable from the Motor Vehicle Account, State Transportation Fund		49,461,000

Item			Amount
3400-001-115—For support of State Air Resources Board, for payment to Item 3400-001-001, payable from the Air Pollution Control Fund			8,896,000
3400-001-140—For support of State Air Resources Board, for payment to Item 3400-001-001, payable from the California Environmental License Plate Fund			1,104,000
3400-001-164—For support of State Air Resources Board, for payment to Item 3400-001-001, payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund			1,850,000
3400-001-421—For support of State Air Resources Board, for payment to Item 3400-001-001, payable from the Vehicle Inspection and Repair Fund			8,818,000
3400-001-434—For support of the State Air Resources Board, for payment to Item 3400-001-001, payable from the Air Toxics Inventory and Assessment Account, General Fund			2,802,000
3400-001-465—For support of State Air Resources Board, for payment to Item 3400-001-001, payable from the Energy Resources Programs Account, General Fund			203,000
3400-001-890—For support of State Air Resources Board, for payment to Item 3400-001-001, payable from the Federal Trust Fund			3,088,000
3400-101-044—For local assistance, State Air Resources Board, for assistance to counties in the operation of local air pollution control districts, payable from the Motor Vehicle Account, State Transportation Fund			7,511,000
Schedule:			
(a) 10-Air Pollution Control		7,511,000	
3460-001-001—For support of Colorado River Board of California			283,000
Schedule:			
(a) 100000-Personal Services		698,000	
(b) 300000-Operating Expenses and Equipment		179,000	
(c) Reimbursements		−586,000	
(d) Amount payable from the California Environmental License Plate Fund (Item 3460-001-140)		−8,000	
3460-001-140—For support of Colorado River Board, for payment to Item 3460-001-001, payable from the California Environmental License Plate Fund			8,000

Item		Amount
Provisions:		
1. The funds appropriated by this item are for the Salinity Control Forum.		
3480-001-001—For support of Department of Conservation		15,206,000
Schedule:		
(a) 10-Geologic Hazards and Mineral Resources Conservation	12,859,000	
(b) 20-Oil, Gas, and Geothermal Protection	9,696,000	
(c) 30-Special Services for Resources Protection	1,414,000	
(d) 40.01-Administration	5,520,000	
(e) 40.02-Distributed Administration	−5,520,000	
(f) 50-Beverage Container Recycling and Litter Reduction Program	23,049,000	
(g) Reimbursements	−1,173,000	
(h) Amount payable from the Surface Mining and Reclamation Account, General Fund (Item 3480-001-035)	−2,066,000	
(i) Amount payable from the State Highway Account, State Transportation Fund (Item 3480-001-042)	−12,000	
(ix) Amount payable from the Environmental License Plate Fund (Item 3480-001-140)	−50,000	
(j) Amount payable from the Soil Conservation Fund (Item 3480-001-141)	−1,148,000	
(k) Amount payable from the California Beverage Container Recycling Fund (Item 3480-001-133)	−23,049,000	
(*l*) Amount payable from the California Water Fund (Item 3480-001-144)	−12,000	
(m) Amount payable from the Strong Motion Instrumentation Program Fund (Item 3480-001-398)	−3,670,000	
(n) Amount payable from the Federal Trust Fund (Item 3480-001-890)	−632,000	
Provisions:		
1. Advertising and marketing, which target consumers and are funded by the California Beverage Container Recycling Fund, shall indicate that the California Beverage Recycling and Lit-		

Item	Amount
ter Reduction Act requires payment of refund values to consumers who recycle beverage containers.	
3480-001-035—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the Surface Mining and Reclamation Account, General Fund	2,066,000
3480-001-042—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the State Highway Account, State Transportation Fund	12,000
Provisions: 1. The funds appropriated by this item are for the state's share of the California Institute of Technology seismograph network.	
3480-001-133—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the California Beverage Container Recycling and Litter Reduction Fund	23,049,000
3480-001-140—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the California Environmental License Plate Fund	50,000
3480-001-141—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the Soil Conservation Fund	1,148,000
3480-001-144—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the California Water Fund	12,000
Provisions: 1. The funds appropriated by this item are for the state's share of the California Institute of Technology seismograph network.	
3480-001-398—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the Strong Motion Instrumentation Program Fund	3,670,000
3480-001-890—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the Federal Trust Fund	632,000
3540-001-001—For support of Department of Forestry and Fire Protection	233,402,000
Schedule: (a) 100000-Personal services 233,167,000 (b) 300000-Operating expenses and equipment 111,082,000 (c) Reimbursements −79,588,000	

Item	Amount
(d) Amount payable from the Special Account for Capital Outlay (Item 3540-001-036)	−12,975,000
(dx) Amount payable from the Special Account for Capital Outlay (Item 3540-001-036, Budget Act of 1989)	−1,020,000
(e) Amount payable from the California Environmental License Plate Fund (Item 3540-001-140)	−4,389,000
(f) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3540-001-235)	−3,106,000
(g) Amount payable from the Professional Forester Registration Fund (Item 3540-001-300)	−155,000
(i) Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Item 3540-001-786)	−36,000
(j) Amount payable from the Federal Trust Fund (Item 3540-001-890)	−5,511,000
(k) Amount payable from the Forest Resources Improvement Fund (Item 3540-001-928)	−4,043,000
(*l*) Amount payable from the Timber Tax Fund (Item 3540-001-965)	−24,000

Provisions:

1. No funds appropriated to the Department of Forestry and Fire Protection by this or any other act shall be used to provide assistance in planning or carrying out prescribed burning projects conducted on U.S. Forest Service or Bureau of Land Management lands unless those agencies agree, in writing, to indemnify the state for all suppression costs incurred in the event the fire escapes.
2. Notwithstanding any other provision of law the Director of Finance may authorize temporary or permanent redirection of funds from this item for purposes of emergency fire suppression and detection costs and related emergency revegetation costs.

Item	Amount
3540-001-036—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from the Special Account for Capital Outlay	12,975,000
3540-001-140—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from the California Environmental License Plate Fund	4,389,000
3540-001-235—For support of Department of Forestry and Fire Protection for payment to Item 3540-001-001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund	3,106,000
3540-001-300—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from the Professional Forester Registration Fund	155,000

CALIFORNIA WILDLIFE, COASTAL, AND PARK LAND CONSERVATION PROGRAM

3540-001-786—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 for the California Wildlife, Coastal, and Park Land Conservation Program	36,000
3540-001-890—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from the Federal Trust Fund	5,511,000
Provisions: 1. The Department of Forestry and Fire Protection is authorized to collect and hold federal recoveries in excess of budgeted levels within the Federal Trust Fund for appropriation in subsequent years. Funds will be used in support of cooperative fire protection services on Bureau of Land Management lands. The maximum amount shall not exceed $1,104,000.	
3540-001-928—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from the Forest Resources Improvement Fund	4,043,000
3540-001-965—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from the Timber Tax Fund	24,000

Item		Amount
3540-011-928—For transfer to the General Fund, in accordance with subdivision (a) of Section 4799.13 of the Public Resources Code, for the costs of operation of the state forests for the period July 1, 1990, through June 30, 1991, payable from the Forest Resources Improvement Fund		(1,674,000)

CALIFORNIA WILDLIFE, COASTAL, AND PARK LAND CONSERVATION PROGRAM

3540-101-786—For local assistance, Department of Forestry and Fire Protection, Program 12.10-Resources Protection and Improvement, payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 for the California Wildlife, Coastal, and Park Land Conservation Program		633,000
3540-301-036—For capital outlay, Department of Forestry and Fire Protection, payable from the Special Account for Capital Outlay		91,000
Schedule:		
(1) 30.60.020-Statewide: Options and Appraisals—Acquisitions	20,000	
(4) 30.40.005—Fresno AAB: Replacement Facility-Preliminary Plans	71,000	
Provisions:		
1. Notwithstanding any other provision of law, the funds appropriated for category (4) of this item may be used for the Department of Forestry and Fire Protection's portion of a joint federal-state project to be designed and constructed through the services of the U. S. Forest Service. An agreement for these services shall be entered into between the federal agency and the Department of Forestry and Fire Protection prior to the allocation of preliminary planning funds. This project shall be subject to Section 13332.11 of the Government Code, and any augmentation of these funds shall be subject to existing law.		
3540-301-712—For capital outlay, Department of Forestry and Fire Protection, payable from the Park, Recreation, and Wildlife Enhancement Bond Fund of 1990		5,909,000

Item		Amount
	Schedule:	
	(1) 30.10.025-Sonoma RUH: Replace Auto Shop—Working Drawings, construction, equipment	742,000
	(3) 30.20.055-Feather Falls FFS: Replacement Station—Construction and equipment	679,000
	(4) 30.20.065-Pondosa FFS: Replacement Station—Working drawings, construction and equipment	879,000
	(5) 30.30.005-Rainbow Conservation Camp: Acquire Leased Site—Acquisition	480,000
	(6) 30.30.010-Shandon FFS: Acquire Leased Site—Acquisition	89,000
	(7) 30.30.075-Bitterwater HB: New Base—Working drawings, construction and equipment	1,069,000
	(8) 30.30.080-Sandy Point FFS: Replacement Facility—Working drawings, construction and equipment	796,000
	(9) 30.80-Minor Projects	1,175,000
	Provisions:	
	1. In the event that Assembly Bill No. 145 of the 1989–90 Regular Session is not chaptered, or if chaptered, does not provide that funds from the Park, Recreation, and Wildlife Enhancement Bond Fund of 1990 may be appropriated for purposes of capital outlay for the Department of Forestry and Fire Protection, it is the intent of the Legislature to appropriate funds for the projects included in this item from another general obligation bond measure including funds for the capital outlay program of the Department of Forestry and Fire Protection and to be placed before the voters at the general election of November 6, 1990.	
3540-490	3540-490-Extension of liquidation period, Department of Forestry and Fire Protection. Notwithstanding any other provision of law, the funds appropriated in the following citation shall be available for liquidation as specified below:	
	001-General Fund	
	(1) Item 3540-001-001, Budget Act of 1987, liquidation period extended to June 30, 1991.	

Item		Amount
3540-491—Reappropriation, Department of Forestry and Fire Protection. Notwithstanding any other provision of law, the unencumbered balance, on the effective date of this act, of the appropriation provided in the following citation is reappropriated for the purposes provided for in that appropriation, and shall be available for encumbrance until June 30, 1991:		
036—Special Account for Capital Outlay:		
(1) Item 3540-001-036, Budget Act of 1989.		
3560-001-001—For support of State Lands Commission ..		16,185,000
Schedule:		
(a) 10-Extractive Development	10,839,000	
(b) 20-Land Management and Conservation	8,004,000	
(c) 30.01-Administration	3,374,000	
(d) 30.02-Distributed Administration .	−3,235,000	
(e) Reimbursements	−1,893,000	
(ex) Amount payable from the California Environmental License Plate Fund (Item 3560-001-140) ..	−804,000	
(f) Amount payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund (Item 3560-001-164)	−100,000	
Provisions:		
1. Notwithstanding the provisions of subdivision (d) of Section 4 of Chapter 138, Statutes of 1964, 1st Extraordinary Session, all commission costs for administering Long Beach Tidelands, exclusive of any Attorney General charges, shall be included in revenues deposited into the General Fund pursuant to paragraph (2) of subdivision (a) of Section 6217 of the Public Resources Code.		
2. All costs incurred to manage State School Lands shall be deducted from the revenues produced by those lands and deposited into the General Fund pursuant to Chapter 1213 of the Statutes of 1983.		
3560-001-140—For support of State Lands Commission, for payment to Item 3560-001-001, payable from the California Environmental License Plate Fund		804,000
3560-001-164—For support of State Lands Commission, for payment to Item 3560-001-001, payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund		100,000

Item	Amount
3560-400—Notwithstanding any other provision of law, the commission may expend any unencumbered balance of Item 3560-301-036, Budget Act of 1987, Item 3560-301-036, Budget Act of 1988 and Item 3560-301-036, Budget Act of 1989, for removal of additional hazards not identified in the commission's Hazards Inventory Report to the Legislature, if the commission determines that the additional hazards are in the extreme or moderate category, the commission addresses extreme hazards prior to moderate hazards, and the expenditures are made not earlier than 30 days after notifying the Joint Legislative Budget Committee of its intent to make that expenditure. As findings within the inventory report constitute sufficient information as to the nature of these hazards, expenditures of funds from these appropriations shall not be subject to Public Works Board approval.	
3580-001-001—For support of Seismic Safety Commission, Program 10	1,095,000
3580-001-257—For support of Seismic Safety Commission, payable from the Earthquake Emergency Investigations Account, Natural Disaster Assistance Fund	100,000
3580-490—Reappropriation, Seismic Safety Commission. The balance of the funds provided by an Executive Order in the amount of $250,000 in the following citation is reappropriated for the purposes provided for in that Executive Order, provided that $100,000 of that amount shall be transferred to the Earthquake Emergency Investigations Account, Natural Disaster Assistance Fund, in Item 3580-001-257, for support of the Seismic Safety Commission. This balance shall be available for encumbrance and expenditure until June 30, 1991: 001—General Fund (1) Item 3580-001-001, Budget Act of 1989.	
3600-001-001—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the General Fund	4,985,000
3600-001-140—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the California Environmental License Plate Fund	16,110,000

Item		Amount
3600-001-200—For support of Department of Fish and Game, payable from the Fish and Game Preservation Fund		59,681,000
Schedule:		
(a) 100000-Personal Services	75,280,212	
(b) 300000-Operating Expenses and Equipment	61,754,788	
(bx) Allocated reduction	−12,615,000	
(c) Reimbursements	−11,304,000	
(d) Amount payable from the General Fund (Item 3600-001-001)	−4,985,000	
(e) Amount payable from the California Environmental License Plate Fund (Item 3600-001-140)	−16,110,000	
(f) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3600-001-235)	−6,359,000	
(g) Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Item 3600-001-786)	−3,064,000	
(h) Amount payable from the Federal Trust Fund (Item 3600-001-890)	−22,367,000	
(i) Amount payable from the Fish and Wildlife Pollution Cleanup and Abatement Account, Fish and Game Preservation Fund (Item 3600-001-207)	−458,000	
(j) Amount payable from the Waterfowl Habitat Preservation Account, Fish and Game Preservation Fund (Item 3600-001-211)	−90,000	
(k) Amount payable from the General Fund (Item 3600-002-001)	−1,000	
(*l*) Amount payable from the Fish and Game Preservation Fund (Item 3600-002-200)	−1,000	

Provisions:

1. The amount appropriated in this item may be increased with the approval of, and under the conditions set by, the Department of Finance to meet current obligations proposed to be funded by categories (c) and (h) of this item. The amount shall not be increased until the Department of Fish and Game has a valid contract, signed by the client agency, which provides suf-

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ficient funds to finance the increased authorization. This increased authorization may not be used to expand services or create new obligations.

Reimbursements received under categories (c) and (h) of this item shall be used in repayment of any funds utilized to meet current obligations pursuant to this provision.

2. No later than 30 days prior to entering into any agreement for the temporary care and housing of animals, the director shall certify to the Joint Legislative Budget Committee all of the following:
   (a) The facilities of the proposed contractor are in full compliance with applicable state and federal law and regulations.
   (b) The facilities meet all applicable local and state health, fire, and life safety code requirements.
   (c) The facilities will prevent unnecessary human imprinting of wild animals that will be returned to their native habitat.
   (d) The contractor and employees responsible for the care of wild and exotic animals are trained in and understand the behavior and needs of all species under their care, including proper sanitation, feeding, disease recognition and prevention, and animal handling techniques.
   (e) The facilities have a permanent source of water, and adequate sewage system for animal caging areas, and complete perimeter fencing.
   (f) Commercialization of animals transferred to the facility by the department is prohibited.
3. Of the amount appropriated in this item, $32,000 shall be redirected from the Salmon Stamp Dedicated Account for purposes of supporting the California Advisory Committee on Salmon and Steelhead Trout.
4. (a) The amount appropriated in this item for support of the Department of Fish and Game in the 1990–91 fiscal year reflects the following programmatic reductions necessary to match department expenditures from the nondedicated account of the Fish

Item		Amount
	and Game Preservation Fund to expected revenues:	
	(1) Wildlife Protection Division	−1,058,000
	(2) Wildlife Management Division	−5,001,000
	(3) Natural Heritage Division.	−417,000
	(4) Inland Fisheries Division ..	−1,847,000
	(5) Marine Resources Division	−3,430,000
	(6) Environmental Services Division.....	−862,000
	(b) The Department of Fish and Game may, not sooner than 30 days after notification to the Joint Legislative Budget Committee and the chairs of the fiscal committees, make reductions other than those specified in subdivision (a), if these reductions are consistent with the intent of the Legislature that department expenditures (1) reflect the establishment of a prudent reserve, (2) reduce the need for layoffs of current personnel, (3) are generally consistent with Section 711 of the Fish and Game Code, and (4) minimize revenue losses to the Fish and Game Preservation Fund nondedicated account.	
3600-001-207—For support of the Department of Fish and Game, for payment to Item 3600-001-200, payable from the Fish and Wildlife Pollution Cleanup and Abatement Account, Fish and Game Preservation Fund		458,000
3600-001-211—For support of the Department of Fish and Game, for payment to Item 3600-001-200, payable from the Waterfowl Habitat Preservation Account, Fish and Game Preservation Fund		90,000
3600-001-235—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		6,359,000
	CALIFORNIA WILDLIFE, COASTAL, AND PARK LAND CONSERVATION PROGRAM	
3600-001-786—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988		3,064,000

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3600-001-890—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the Federal Trust Fund	22,367,000
3600-002-001—For support of the Department of Fish and Game, for payment to Item 3600-001-200, payable from environmental fees	1,000
Provisions:	
1. The funds appropriated in this item, payable from environmental fees, shall not be available for expenditure until legislation has been enacted to authorize the collection of these fees, and the administration has proposed pursuant to Section 28.00 of this act an expenditure plan that conforms to realistic revenue estimates and appropriate notification has been provided pursuant to Section 27.00 of this act.	
3600-002-200—For support of the Department of Fish and Game, for payment to Item 3600-001-200, payable from the Fish and Game Preservation Fund, from increased fishing licenses and commercial fees and adjustments	1,000
Provisions:	
1. The funds appropriated in this item, payable from new fishing licenses and commercial fees and adjustments, shall not be available for expenditure until legislation has been enacted to authorize the collection of these fees, and the administration has proposed pursuant to Section 28.00 of this act an expenditure plan that conforms to realistic revenue estimates and appropriate notification has been provided pursuant to Section 27.00 of this act.	
3600-011-001—For support of Department of Fish and Game (reimbursement of free fishing licenses), for transfer to the Fish and Game Preservation Fund, payable from the General Fund	16,000
3600-011-235—For transfer to the California Waterfowl Habitat Preservation Account, Fish and Game Preservation Fund, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund	(1,000,000)
3600-031-200—For support of Department of Fish and Game, for reimbursement to the State Department of Health Services for shellfish monitoring activities, payable from the Fish and Game Preservation Fund	203,000

Item		Amount
Schedule:		
(a) 300000-Operating expenses and equipment	203,000	
3600-301-140—For capital outlay, Department of Fish and Game, payable from California Environmental License Plate Fund		60,000
Schedule:		
(1) 90.07.100-Minor projects	60,000	
3600-301-200—For capital outlay, Department of Fish and Game, payable from the Fish and Game Preservation Fund		0
Schedule:		
(1) 90.88.009-Suisun Marsh: Hill Slough Interpretive Facility —construction	293,000	
(2) Reimbursement-Suisun Marsh: Hill Slough Interpretive Facility —construction	−293,000	
3600-301-235—For capital outlay, Department of Fish and Game, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		481,000
Schedule:		
(1) 90.07.100-Minor projects	481,000	
CALIFORNIA WILDLIFE, COASTAL, AND PARK LAND CONSERVATION PROGRAM		
3600-301-786—For capital outlay, Department of Fish and Game, payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988		93,000
Schedule:		
(1) 90.90.003-Experimental Hatchery: Wild Trout and Steelhead—Study	93,000	
3640-001-140—For support of Wildlife Conservation Board, for payment to Item 3640-001-447, payable from the California Environmental License Plate Fund		250,000
3640-001-235—For support of Wildlife Conservation Board, for payment to Item 3640-001-447, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		58,000
3640-001-262—For support of Wildlife Conservation Board, for payment to Item 3640-001-447, payable from the Habitat Conservation Fund		200,000

Item		Amount
Provisions:		
1. The funds appropriated in this item are provided in accordance with provisions of the California Wildlife Protection Act of 1990, and shall be used for the administrative costs associated with Proposition 117.		
3640-001-447—For support of Wildlife Conservation Board, payable from the Wildlife Restoration Fund.		606,000
Schedule:		
(a) 100000-Personal Services	905,000	
(b) 300000-Operating Expenses and Equipment	458,000	
(c) Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Public Resources Code Section 5907)	−249,000	
(cx) Amount payable from the California Environmental License Plate Fund (Item 3640-001-140)	−250,000	
(d) Amount payable from Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3640-001-235)	−58,000	
(e) Amount payable from the Habitat Conservation Fund (Item 3640-001-262)	−200,000	
Provisions:		
1. Of the amount appropriated in this item, $250,000 shall be for the purposes of Chapter 1571 of the Statutes of 1982.		
3640-011-748—For transfer to the Habitat Conservation Fund, payable from the Fish and Wildlife Habitat Enhancement Fund		1,100,000
Provisions:		
1. The funds transferred by this item shall be used for purposes consistent with the requirements of the Fish and Wildlife Habitat Enhancement Fund and the Habitat Conservation Fund.		
3640-011-787—For transfer to the Habitat Conservation Fund, payable from the Wildlife and Natural Areas Conservation Fund		7,700,000
Provisions:		
1. The funds transferred by this item shall be used for purposes consistent with the requirements of the Wildlife and Natural Areas Conservation Fund and the Habitat Conservation Fund.		

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3640-301-235—For capital outlay, Wildlife Conservation Board, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund 985,000

Schedule:

(1) 80.10.133-Waterfowl habitat-Acquisition 560,000

(2) 80.10.137-Coyote Hills Wetland Project 250,000

(3) Consumnes River Preserve: development of visitor center 175,000

Provisions:

1. The funds in this item are provided in accordance with the provisions of the Wildlife Conservation Law of 1947 and, therefore, shall not be subject to Public Works Board review.
2. The amount appropriated in this item for the Coyote Hills Wetland Project is available for expenditure for capital outlay or local assistance.

3640-301-262—For capital outlay, Wildlife Conservation Board, payable from the Habitat Conservation Fund 10,800,000

Schedule:

(a) Waterfowl Habitat Acquisition..... 940,000

(b) Unallocated 9,860,000

Provisions:

1. The funds in this item are provided in accordance with the provisions of the Wildlife Conservation Law of 1947 and, therefore, shall not be subject to Public Works Board review.
2. Of the amount appropriated in this item, $7,700,000 shall be expended for purposes consistent with the provisions of the Wildlife and Natural Areas Conservation Fund and the Habitat Conservation Fund.
3. Of the amount appropriated in this item, $1,100,000 shall be expended for purposes consistent with the provisions of the Fish and Wildlife Habitat Enhancement Fund and the Habitat Conservation Fund.
4. Up to $5,000,000 of the funds appropriated in this item shall be considered for a high priority acquisition of native oak woodlands and associated highly rare, natural communities unique to Southern California uplands. Priority for the allocation of these funds shall be for any project for which there are substantial matching funds

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from a nonstate source or sources.

5. Of the amount appropriated in this item, $2,000,000 shall be expended for purposes consistent with the provisions of the Unallocated Account, Cigarette and Tobacco Products Surtax Fund, and the Habitat Conservation Fund.

3640-301-447—For capital outlay, Wildlife Conservation Board, payable from the Wildlife Restoration Fund, in lieu of the appropriation made by the Wildlife Conservation Law of 1947 350,000

Schedule:

(1) 80.10.010-Minor Projects..... 250,000
(2) 80.10.030-Land Acquisitions..... 100,000

Provisions:

1. The funds appropriated in this item are provided in accordance with the provisions of the Wildlife Conservation Law of 1947 and, therefore, shall not be subject to Public Works Board review.

FISH AND WILDLIFE HABITAT ENHANCEMENT PROGRAM

3640-301-748—For capital outlay, Wildlife Conservation Board, payable from the Fish and Wildlife Habitat Enhancement Fund..... 1,760,000

Schedule:

(1) 80.10.110-Acquisition, Enhancement, or Development pursuant to Fish and Game Code Section 2620(a)(1)..... 110,000
(2) 80.10.120-Acquisition, Enhancement, or Development pursuant to Fish and Game Code Section 2620(a)(2)..... 1,400,000
(3) 80.10.140-Acquisition, Enhancement, or Development pursuant to Fish and Game Code Section 2620(d) 230,000
(4) 80.10.150 Project Planning 20,000

Provisions:

1. The funds in categories (1) through (3), inclusive, are provided pursuant to the Wildlife Conservation Law of 1947 and, therefore, shall not be subject to Public Works Board review.
2. The funds in categories (1) and (2) are for expenditure on lands located outside the coastal zone.

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3. An amount not to exceed the amount of unsold bonds or notes which has been authorized to be sold by the Wildlife Habitat Enhancement Program Finance Committee for projects appropriated from this fund may be loaned from the General Fund, upon approval of the Director of Finance, for deposit into the Fish and Wildlife Habitat Enhancement Fund.		
4. The funds in category (4) are appropriated pursuant to Fish and Game Code Section 2728.		
3680-001-001—For support of Department of Boating and Waterways, for payment to Item 3680-001-516		276,000
3680-001-516—For support of Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund		4,431,000
Schedule:		
(a) 10-Boating Facilities	2,605,000	
(b) 20-Boating Operations	2,723,000	
(c) 30-Beach Erosion Control	356,000	
(d) 40.01-Administration	1,041,000	
(e) 40.02-Distributed Administration	−1,041,000	
(f) Reimbursements	−15,000	
(g) Amount payable from the General Fund (Item 3680-001-001)	−276,000	
(h) Amount payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund (Item 3680-001-164)	−80,000	
(i) Amount payable from the Federal Trust Fund (Item 3680-001-890)	−882,000	
3680-001-890—For support of Department of Boating and Waterways, for payment to Item 3680-001-516, payable from the Federal Trust Fund		882,000
3680-101-235—For local assistance, Department of Boating and Waterways, for payment to Item 3680-101-516, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		1,000,000
3680-101-516—For local assistance, Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund		35,569,000
Schedule:		
(a) 10-Boating Facilities	32,169,000	
Launching Facility Grants	(5,869,000)	
1) Blue Lake, Lassen County	(121,000)	

Item		Amount
2) Clark Springs, Trinity County		(82,000)
3) Lake Clementine, Placer County		(113,000)
4) Englebright Res., Yuba County		(311,000)
5) Floating Rest rooms, Statewide		(300,000)
6) Gallatin Beach, Eagle Lake, Lassen County		(227,000)
7) Garcia Bend Park, Sacramento County		(251,000)
8) Grand Street, Alameda County		(294,000)
9) Lower Twin Lake, Mono County		(429,000)
10) Lake Mendocino, Mendocino County		(338,000)
11) Oyster Pt. Marina, San Mateo County		(100,000)
12) Park Moabi, San Bernardino County		(136,000)
13) Lake Piru, Ventura County		(600,000)
14) Pittsburg Marina, Contra Costa County		(518,000)
15) Ramp Repairs, Ext., Statewide		(300,000)
16) Santa Margarita, San Luis Obispo County		(300,000)
17) Shelter Cove, Humboldt County		(460,000)
18) Spicer Meadows, Tuolumne County		(396,000)
19) Westside Park, (Bodega Bay) Sonoma County		(326,000)

Item		Amount
20) Lake Wohlford, San Diego County	(267,000)	
Small Craft Harbor Loans	(18,300,000)	
1) Avalon Harbor, Los Angeles County	(850,000)	
2) Emergency Loans, Statewide	(200,000)	
3) King Harbor, Redondo Beach Los Angeles County	(2,000,000)	
4) Marina Del Rey, Los Angeles County	(7,000,000)	
5) Monterey, Monterey County	(3,500,000)	
6) Planning Loans, Statewide	(150,000)	
7) Sacramento Harbor, Sacramento County	(500,000)	
8) San Leandro, Alameda County	(800,000)	
9) Vallejo Marina, Solano County	(1,700,000)	
10) Ventura Harbor, Ventura County	(1,600,000)	
Recreational Marina Loans—Private	(8,000,000)	
(b) 20-Boating Operations		4,250,000
1) Boating Safety and Enforcement	(3,400,000)	
2) Boating Safety Financial Assistance.	(850,000)	
(c) 30-Beach Erosion Control		1,000,000
1) Ocean Beach, San Francisco County	(1,000,000)	
(e) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3680-101-235)		−1,000,000
(f) Amount payable from the Federal Trust Fund (Item 3680-101-890)		−850,000

Provisions:

1. Of the funds appropriated in category (a), $5,869,000 is for grants to cities, counties, dis-

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tricts, or other public agencies pursuant to Sections 72.5 and 72.7 of the Harbors and Navigation Code to be used for construction and development of small craft launching facilities and floating restrooms.

2. Of the funds appropriated in category (a), $18,300,000 is for loans to be made to cities, counties, or districts pursuant to Sections 70.2 and 71.4 of the Harbors and Navigation Code, Department of Boating and Waterways.
3. No funds appropriated in category (a) shall be expended unless and until all project permits from the appropriate state and federal agencies are received, except for those funds that are necessary to obtain project permits.
4. No funds appropriated in category (a) shall be encumbered or expended unless and until an environmental impact report is completed and approved for the project.
5. Of the funds appropriated in category (b), $3,400,000 is for boating safety and enforcement programs pursuant to Section 663.7 of the Harbors and Navigation Code.
6. Of the funds appropriated in category (b), $850,000 for Boating Safety Financial Assistance shall be expended in accordance with federal law.
7. Of the funds appropriated in category (a), $8,000,000 is for private recreational marinas pursuant to Section 76.3 of the Harbors and Navigation Code.
8. Of the funds appropriated in category (a), $200,000 is to provide for repairs of damage caused by emergency conditions, including, but not limited to, tidal waves or severe storms, at small craft harbor facilities constructed pursuant to Sections 70.2 and 71.4 of the Harbors and Navigation Code. These repairs may be authorized by the Director of Boating and Waterways.

3680-101-890—For local assistance, Department of Boating and Waterways, for payment to Item 3680-101-516, payable from the Federal Trust Fund 850,000

Provisions:

1. Funds appropriated by this item shall be for grants to local governments for boating safety and law enforcement, 15 percent of which shall

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be allocated according to the department's discretion, and 85 percent of which shall be allocated by the department in accordance with the following priorities:		
First—To local governments eligible for state aid because they are spending all their local boating revenue on boating enforcement and safety, but are not receiving sufficient state funds to meet their calculated need as defined in Section 663.7 of the Harbors and Navigation Code.		
Second—To local governments that are not spending all local boating revenue on boating enforcement and safety, and whose boating revenue does not equal their calculated need. Local assistance shall not exceed the difference between the calculated need and local boating revenue.		
Third—To local governments whose boating revenue exceeds their need, but who are not spending sufficient local revenue to meet their calculated need.		
3680-121-890—For local assistance, Department of Boating and Waterways, for transfer to the Harbors and Watercraft Revolving Fund, payable from the Federal Trust Fund		1,700,000
Provisions:		
1. Notwithstanding Section 28.00, any amount in excess of the amount appropriated in Item 3680-121-890, received for reimbursement of local assistance projects that commenced and were completed in prior years, shall be transferred to the Harbors and Watercraft Revolving Fund.		
3680-301-516—For capital outlay, Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund		1,049,000
Schedule:		
(1) 50.99.010-Project Planning	20,000	
(2) 50.99.020-Minor projects	1,029,000	
3720-001-001—For support of California Coastal Commission		6,550,000
Schedule:		
(a) 10-Coastal Management Program	9,145,000	
(b) 20-Coastal Energy Program	461,000	
(c) 30.01-Administration	1,343,000	
(d) 30.02-Distributed Administration	−1,008,000	
(e) Reimbursements	−40,000	

Item		Amount
(f) Amount payable from the California Environmental License Plate Fund (Item 3720-001-140)	−1,093,000	
(g) Amount payable from the Federal Trust Fund (Item 3720-001-890)	−2,258,000	

Provisions:

1. The commission shall, to the extent legally possible, utilize categorical exclusions, permit exemptions, and administrative permits authorized by Division 20 (commencing with Section 30000) of the Public Resources Code to reduce the commission's regulatory workload and to achieve overall cost savings to the state.
2. The commission shall, to the extent resources are available, undertake efforts to expedite the transfer to local governments of coastal development permit authority pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code by providing training and any other assistance it deems appropriate to assist local governments in the assumption of this coastal permit responsibility.

3720-001-140—For support of California Coastal Commission, for payment to Item 3720-001-001, payable from the California Environmental License Plate Fund		1,093,000
3720-001-890—For support of California Coastal Commission, for payment to Item 3720-001-001, payable from the Federal Trust Fund		2,258,000
3720-101-890—For local assistance, California Coastal Commission, Program 10—Coastal Management Program, payable from the Federal Trust Fund		300,000
3760-001-565—For support of State Coastal Conservancy, payable from the State Coastal Conservancy Fund of 1976		708,000
Schedule:		
(a) 100000-Personal Services	2,537,000	
(b) 300000-Operating Expenses and Equipment	769,000	
(c) 400000-Special Items of Expense	630,000	
(d) Reimbursements	−375,000	
(e) Amount payable from the Fish and Wildlife Habitat Enhancement Fund (Item 3760-001-748)	−250,000	
(f) Amount payable from the State Coastal Conservancy Fund of 1984 (Item 3760-001-730)	−495,000	

Item		Amount
(g) Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Item 3760-001-786)	−1,310,000	
(h) Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Public Resources Code Section 5907)	−798,000	

Provisions:

1. To the extent feasible, the conservancy shall use available resources to secure a purchase option on a 1.4 acre "Parcel #4" at Ocean Beach in the City and County of San Francisco.

3760-001-730—For support of State Coastal Conservancy, for payment to Item 3760-001-565, payable from the State Coastal Conservancy Fund of 1984 495,000

FISH AND WILDLIFE HABITAT ENHANCEMENT PROGRAM

3760-001-748—For support of State Coastal Conservancy, for payment to Item 3760-001-565, payable from the Fish and Wildlife Habitat Enhancement Fund 250,000

Provisions:

1. An amount not to exceed the amount of unsold bonds or notes which has been authorized to be sold by the Wildlife Habitat Enhancement Program Finance Committee for state operations appropriated from this fund may be loaned from the General Fund, upon approval by the Director of Finance, for deposit into the Fish and Wildlife Habitat Enhancement Fund.

CALIFORNIA WILDLIFE, COASTAL, AND PARK LAND CONSERVATION PROGRAM

3760-001-786—For support of State Coastal Conservancy, for payment to Item 3760-001-565, payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 1,310,000

3760-011-748—For transfer to the Habitat Conservation Fund, payable from the Fish and Wildlife Habitat Enhancement Fund 700,000

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Provisions:

1. The funds transferred by this item shall be used for purposes consistent with the requirements of the Fish and Wildlife Habitat Enhancement Fund and the Habitat Conservation Fund.

3760-011-786—For transfer to the Habitat Conservation Fund, payable from the California Wildlife, Coastal, and Park Land Conservation Fund 3,300,000

Provisions:

1. The funds transferred by this item shall be used for purposes consistent with the requirements of the California Wildlife, Coastal, and Park Land Conservation Fund and the Habitat Conservation Fund.

STATE COASTAL CONSERVANCY

3760-101-565—For local assistance, State Coastal Conservancy, payable from the State Coastal Conservancy Fund of 1976..... 252,000

Schedule:

(a) 500-001—Huntington Beach Pier-emergency ramp and hoist 61,000

(b) 500-002—Huntington Beach Pier-lifeguard tower 191,000

Provisions:

1. The amount appropriated in this item is available for expenditure for local assistance or capital outlay.

3760-101-786—For local assistance, State Coastal Conservancy, payable from the California Wildlife, Coastal, and Park Land Conservation Fund 450,000

Schedule:

(1) 500.005—Petaluma River Enancement Program..... 300,000

(2) Arcata Marsh Interpretive Center 150,000

Provisions:

1. The conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition which provides for either of the following:
   a. A reversionary interest to the state, unless the grant contract specifies that the property shall not revert to the state without review and approval by the conservancy and the State Public Works Board.

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b. A state leasehold interest in property acquired by a nonstate public agency with conservancy grant funds, unless the lease terms are approved by the Director of General Services. Except to the extent set forth in subdivision (a), the expenditures of funds for grants to public agencies and nonprofit organizations shall be exempt from State Public Works Board review.	
2. The amount appropriated in this item is available for expenditure for capital outlay or local assistance.	
3760-301-262—For capital outlay, State Coastal Conservancy, payable from the Habitat Conservation Fund	4,000,000
Provisions:	
1. The conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition which provides for either of the following:	
a. A reversionary interest to the state, unless the grant contract specifies that the property shall not revert to the state without review and approval by the conservancy and the State Public Works Board.	
b. A state leasehold interest in property acquired by a nonstate public agency with conservancy grant funds, unless the lease terms are approved by the Director of General Services. Except to the extent above, the expenditures of funds for grants to public agencies and nonprofit organizations shall be exempt from State Public Works Board review.	
2. The amount appropriated in this item is available for expenditure for either capital outlay or local assistance.	
7. Of the funds appropriated in this item, $3,300,000 shall be used for purposes consistent with the requirements of the California Wildlife, Coastal, and Park Land Conservation Fund, and the Habitat Conservation Fund.	
8. Of the funds appropriated in this item, $700,000 shall be used for purposes consistent with the requirements of the Fish and Wildlife Habitat Enhancement Act of 1984 and the Habitat Conservation Fund.	

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9. The conservancy shall consider the Point Cabrillo project a high-priority purchase.

3760-301-730—For capital outlay, State Coastal Conservancy, payable from the State Coastal Conservancy Fund of 1984..... 1,500,000

Schedule:

(1) 80.18.060—Urban Waterfront Restoration 1,500,000

Provisions:

1. The conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition which provides for either of the following:
   a. A reversionary interest to the state, unless the grant contract specifies that the property shall not revert to the state without review and approval by the conservancy and the State Public Works Board.
   b. A state leasehold interest in property acquired by a nonstate public agency with conservancy grant funds, unless the lease terms are approved by the Director of General Services. Except to the extent above, the expenditures of funds for grants to public agencies and nonprofit organizations shall be exempt from State Public Works Board review.
2. The amount appropriated in this item is available for expenditure for capital outlay or local assistance.

FISH AND WILDLIFE HABITAT ENHANCEMENT PROGRAM

3760-301-748—For capital outlay, State Coastal Conservancy, payable from the Fish and Wildlife Habitat Enhancement Fund..... 1,300,000

Schedule:

(1) 80.19.040-Resource Enhancement. 1,300,000

Provisions:

1. The conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition which provides for either of the following:
   a. A reversionary interest to the state, unless the grant contract specifies that the property shall not revert to the state without review

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and approval by the conservancy and the State Public Works Board.

b. A state leasehold interest in property acquired by a nonstate public agency with conservancy grant funds, unless the lease terms are approved by the Director of General Services. Except to the extent above, the expenditures of funds for grants to public agencies and nonprofit organizations shall be exempt from State Public Works Board review.

2. The amount appropriated in this item is available for expenditure for capital outlay or local assistance.

3. An amount not to exceed the amount of unsold bonds or notes which has been authorized to be sold by the Wildlife Habitat Enhancement Program Finance Committee for projects appropriated from the Fish and Wildlife Habitat Enhancement Fund may be loaned from the General Fund, upon approval of the Director of Finance, for deposit into the Fish and Wildlife Habitat Enhancement Fund.

CALIFORNIA WILDLIFE, COASTAL, AND PARK LAND CONSERVATION PROGRAM

3760-301-786—For capital outlay, State Coastal Conservancy, payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 6,050,000

Schedule:

(1) 80.18.010-Agricultural Land Preservation.....	800,000
(2) 80.18.020-Coastal Restoration.....	2,000,000
(3) 80.18.030-Public Access.....	2,750,000
(5) 80.18.050-Site Reservation	500,000

Provisions:

1. The conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition which provides for either of the following:

a. A reversionary interest to the state, unless the grant contract specifies that the property shall not revert to the state without review and approval by the conservancy and the State Public Works Board.

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b. A state leasehold interest in property acquired by a nonstate public agency with conservancy grant funds, unless the lease terms are approved by the Director of General Services. Except to the extent above, the expenditures of funds for grants to public agencies and nonprofit organizations shall be exempt from State Public Works Board review.		
2. Notwithstanding Section 6.50 of this act, the conservancy may transfer funds between programs in categories (1) through (5), inclusive. The conservancy shall provide quarterly reports to the chairperson of the committee of each house which considers appropriations, and to the Joint Legislative Budget Committee. The report shall summarize the conservancy's actions with a comparison of the amounts scheduled in categories (1) through (5), inclusive, the amounts allocated by the conservancy, and an explanation of any difference between the scheduled and allocated amounts.		
3. The amount appropriated in this item is available for expenditure for either capital outlay or local assistance.		
4. Of the amount appropriated in category (3) of this item, $250,000 shall be available for the Eric Seastrand Visitor Center at Nipomo Dunes.		
3790-001-001—For support of Department of Parks and Recreation		70,509,000
Schedule:		
(a) 100000-Personal Services	117,688,000	
(b) 300000-Operating Expenses and Equipment	49,446,000	
(c) 400001-Special Item of Expense—Rehabilitation of Camping Facilities	200,000	
(d) Reimbursements	−5,160,000	
(dx) Amount payable from the California Environmental License Plate Fund (Item 3790-001-140)	−40,000	
(e) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3790-001-235)	−2,291,000	
(f) Amount payable from the Off-Highway Vehicle Fund (Item 3790-001-263)	−10,132,000	

Item		Amount
(g)	Amount payable from the State Parks and Recreation Fund (Item 3790-001-392)	−68,966,000
(h)	Amount payable from the State Parks and Recreation Fund, Fines and Forfeitures Account (Item 3790-001-394)	−771,000
(i)	Amount payable from the Winter Recreation Fund (Item 3790-001-449)	−93,000
(j)	Amount payable from the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Account (Item 3790-001-463)	−514,000
(k)	Amount payable from the Harbors and Watercraft Revolving Fund (Item 3769-001-516)	−366,000
(*l*)	Amount payable from the Parklands Fund of 1984 (Item 3790-001-722)	−5,067,000
(m)	Amount payable from the State Beach, Park, Recreational, and Historical Facilities Bond Act of 1964 (Item 3790-001-732)	−9,000
(n)	Amount payable from the State Beach, Park, Recreational, and Historical Facilities Bond Act of 1974 (Item 3790-001-733)	−776,000
(o)	Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Item 3790-001-786)	−637,000
(p)	Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (paragraphs (1) and (3) of subdivision (b) of Section 5907 of the Public Resources Code)	−220,000
(q)	Amount payable from the Federal Trust Fund (Item 3790-001-890)	−1,783,000

Provisions:

1. (a) Notwithstanding any other provision of law, the State Department of Parks and Recreation, or the City of Santa Monica acting on behalf of the department, shall not require the current concessionaire located at 415 Pacific Coast Highway to vacate the prop-

Item		Amount
	erty until all zoning and other required permits have been obtained for converting the property to a new use in accordance with the final agreement between the City of Santa Monica, the State Department of Parks and Recreation, and the new concessionaire chosen to operate said new use.	
	(b) If the current concessionaire remains past December 31, 1989, the concessionaire shall pay rent of $20,833 per month beginning January 1, 1990, and shall be prepared to immediately vacate the property when final zoning and other permits are obtained to avoid delays in constructing new facilities.	
	2. Of the amount appropriated by this item, $100,000, as transferred from Items 3790-001-392 ($80,000) and 3790-001-235 ($20,000), shall be available for operation of Olompali State Historic Park, but none of these funds shall be available for expenditure until the access road project is completed. The amount transferred from Item 3790-001-392 shall be available for allocation by the Director of Finance, based on the number of months remaining in the fiscal year at the time the access road project is completed.	
	4. Of the funds appropriated by this act from state special funds, other than the Off-Highway Vehicle Fund and bond funds, to the Department of Parks and Recreation for local assistance grants to local agencies, the department may allocate an amount not to exceed 1.5 percent of each project's allocation to provide for the department's costs to administer these grants.	
	5. It is the intent of the Legislature and the Governor that state park fees shall be increased sufficiently in the 1990–91 fiscal year to obtain $16,000,000 in new revenues for the State Parks and Recreation Fund.	
3790-001-140—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the Environmental License Plate Fund		40,000
3790-001-235—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		2,291,000

Item	Amount
3790-001-263—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the Off-Highway Vehicle Fund	10,132,000
3790-001-392—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the State Parks and Recreation Fund	68,966,000
3790-001-394—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the State Parks and Recreation Fund, Fines and Forfeitures Account	771,000
3790-001-449—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the Winter Recreation Fund	93,000
3790-001-463—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Account	514,000
3790-001-516—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the Harbors and Watercraft Revolving Fund	366,000
Provisions:	
1. The funds appropriated in this item are pursuant to subdivision (d) of Section 663.7 of the Harbors and Navigation Code, Harbors and Watercraft Revolving Fund.	
3790-001-722—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the Parklands Fund of 1984	5,067,000
3790-001-732—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the State Beach, Park, Recreational, and Historical Facilities Bond Act of 1964	9,000
3790-001-733—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the State Beach, Park, Recreational, and Historical Facilities Bond Act of 1974	776,000
3790-001-786—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from California Wildlife, Coastal, and Park Land Conservation Fund of 1988, Public Resources Code Section 5907(a) and (b)(2)	637,000
Provisions:	
1. Of the amount appropriated by this item, $369,000 shall be available to the Department of Parks and Recreation for administrative costs for the local assistance grant programs specified	

Item	Amount
in subdivision (a) of Section 5907 of the Public Resources Code.	
2. Of the amount appropriated by this item, $268,000 shall be available to the Department of Parks and Recreation for administrative costs for the capital outlay programs specified in subdivision (b) (2) of Section 5907 of the Public Resources Code.	
3790-001-890—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the Federal Trust Fund	1,783,000
3790-011-062—For support of Department of Parks and Recreation, for transfer by the State Controller to the State Parks and Recreation Fund, as prescribed by subdivision (a) of Section 2107.7 of the Streets and Highways Code, for expenditure by the department for maintenance and repair of highways in units of the state park system, payable from the Highway Users Tax Account, Transportation Tax Fund	(1,500,000)
3790-011-235—For support of Department of Parks and Recreation, for transfer by the State Controller to the Community Parklands Fund of 1986, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund	2,750,000
Provisions:	
2. The funds appropriated in this item are for grants to local agencies pursuant to the Community Parklands Act of 1986 (Chapter 3.7 (commencing with Section 5700) of Division 5 of the Public Resources Code). This appropriation is made in lieu of reductions to local assistance grants appropriated from the Community Parklands Fund of 1986 which would otherwise be necessary pursuant to the loan interest provisions of Chapter 984, the Statutes of 1988, and to ensure compliance with the provisions of the 1986 parklands act.	
CALIFORNIA ENVIRONMENTAL LICENSE PLATE FUND	
3790-101-140—For local assistance, Department of Parks and Recreation, payable from the California Environmental License Plate Fund	1,266,000
Schedule:	
(1) 50.20.140.903—California Academy of Sciences 500,000	

Item		Amount
(2) 50.20.140.904—Alameda County, Oakland Museum Aquatic Biology Hall	400,000	
(4) 50.20.140.907—City of Garden Grove, Orange County, Twin Lakes Park Pumping System	41,000	
(9) 50.20.140.912—City of Los Angeles, Harbor Regional Park, Machado Lake Plan	200,000	
(10) 50.20.140.913—Mariposa Mineral Exhibit Building	125,000	

PUBLIC RESOURCES ACCOUNT, CIGARETTE AND TOBACCO PRODUCTS SURTAX FUND

3790-101-235—For local assistance, Department of Parks and Recreation, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund, to be available for expenditure during the 1990–91, 1991–92, and 1992–93 fiscal years. Schedule:		8,584,000
(6) 50.20.235.804-City of San Jose, Santa Clara County, Guadalupe River Park	100,000	
(7) 50.20.235.805-San Carlos Community Center	15,000	
(9) 50.20.235.807-City of Willits, Mendocino County, Willits Youth Recreation Center	80,000	
(10) 50.20.235.808-East Bay RPD: Miller/Knox Trail	400,000	
(11) 50.20.235.811-City of Downey, Los Angeles County, Appollo Park Community Senior Center	150,000	
(12) 50.20.235.812-City of Burbank, McCambridge Park Gun Range Renovation	40,000	
(13) 50.20.235.813-City of Danville, Contra Costa County, Montair School/Park Renovation	200,000	
(14) 50.20.235.814-City of Clovis, Fresno County, Gettysburg Park Development	183,000	
(16) 50.20.235.816-City of Atwater, Merced County, Atwater Community Center	336,000	

Item	Amount
(17) 50.20.235.817-Modesto Department of Parks and Recreation, Stanislaus County, Sonoma Neighborhood Park	21,000
(18) 50.20.235.818-Modesto Department of Parks and Recreation, Stanislaus County, Youth Service Coordinator	58,000
(19) 50.20.235.819-City of Live Oak, Sutter County, Live Oak Community Center	73,000
(20) 50.20.235.820-City of Marysville, Yuba County, Yuba-Sutter Multiuse Recreational Complex	300,000
(21) 50.20.235.821-City of Indio, Riverside County, Indio Parks Playground Equipment	30,000
(22) 50.20.235.822-City of Lake Elsinore, Riverside County, Lakepoint Park Project	46,000
(23) 50.20.235.823-City of Moreno Valley, Riverside County, Poormans Reservoir	200,000
(24) 50.20.235.824-City of Banning, Riverside County, Repplier Park Ballfield	15,000
(25) 50.20.235.825-City of San Jose, Santa Clara County, Camden Lifetime Activities Center	100,000
(27) 50.20.235.827-City of San Jose, Santa Clara County, Lake Cunningham Park	100,000
(28) 50.20.235.828-County of Fresno, Black Historical/Cultural Museum	130,000
(29) 50.20.235.829-City of Kerman, Fresno County, Kerman Rotary Park	65,000
(31) 50.20.235.831-City of Rialto, San Bernardino County, Cactus Basin Park	200,000
(32) 50.20.235.832-City of Lakewood, Los Angeles County, Palms Park Field Lighting and Wading Pool.	250,000

Item	Amount
(36) 50.20.235.87-North Highlands RPD, Sacramento County, North Highlands Community Sports Complex	157,000
(37) 50.20.235.838-City of San Diego, San Diego County, San Diequito River Valley Regional Park-Piedras Pintadas	250,000
(38) 50.20.235.839-City of Lakewood, Los Angeles County, Lakewood Parks Sports Lighting	125,000
(39) 50.20.235.840-City of Fillmore, Ventura County, Fillmore Bikeway	22,000
(40) 50.20.235.841-City of Santa Barbara, Ventura County, Peabody Stadium Rehabilitation	50,000
(41) 50.20.235.842-City of Campo, San Diego County, Campo Community Center	25,000
(42) 50.20.235.843-National City, San Diego County, Filipino Community Center, Building acquisition	50,000
(43) 50.20.235.844-City of Heber, Imperial County, Heber Ballfield	113,000
(44) 50.20.235.845-City of Westmoreland, Imperial County, Park in Westmoreland	40,000
(45) 50.20.235.846-City of Santa Ana, Orange County, Santa Ana-Madison Park Improvements	400,000
(47) 50.20.235.848-City of Stanton, Orange County, Stanton Multi-Generation Recreation Facililty	339,000
(49) 50.20.235.850-City of West Hollywood, Los Angeles County, William S. Hart House and Adjacent Theater	200,000
(50) 50.20.235.851-City of San Diego, San Diego County, Encanto Neighborhood Park	50,000
(51) 50.20.235.852-City of Chula Vista, San Diego County, Chula Vista Memorial Park	100,000
(52) 50.20.235.853-Big Valley PRD, Community Pool	68,000

Item	Amount
(53) 50.20.235.854-El Dorado County Community Services District, Community Pool	300,000
(54) 50.20.235.855-City of Bellflower, Los Angeles County, Thompson Pool Aquatic Complex Project	174,000
(55) 50.20.235.856-City of Mammoth Lakes, Mono County, Mammoth Lakes Community Center, Renovations Roof/Handicapped Access	87,000
(56) 50.20.235.857-City of San Jose, Santa Clara County, Los Alamitos/Calero Creek Phase III and IV Master Plan	250,000
(57) 50.20.235.858-City of El Centro, Imperial County, Stark Field Rehabilitation	342,000
(58) 50.20.235.859-City of Los Angeles, Los Angeles County, Los Feliz Hills School Acquisition for Park/Soccer Field	400,000
(59) 50.20.235.860-City of San Diego, San Diego County, Keiller Neighborhood Park	200,000
(60) 50.20.235.861-County of Tuolumne, Greenley Rotary Park	60,000
(61) 50.20.235.862-Amador County, Pioneer Park	175,000
(62) 50.20.235.863-Monterey County, Monterey County Parks Department, Southern Parks Capital Improvement and Deferred Maintenance	200,000
(63) 50.20.235.864-Sacramento County, Sacramento Multicultural Park	250,000
(64) 50.20.235.865-City of San Ramon, Contra Costa County, San Ramon Senior Community Park and Garden Center	565,000
(65) 50.20.235.866-City of San Diego, San Diego County, East Clairemont Athletic Area	300,000
(66) 50.20.235.867-City of San Diego, San Diego County, Wilson Middle School, Lights	200,000

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Provisions:

1. No funds appropriated in category (37) for a local assistance grant to the City of San Diego shall be encumbered unless and until the Director of Parks and Recreation determines that the city has committed at least $250,000 of nonstate funds to the preservation of the San Dieguito River Valley Regional Park—Piedras Pintadas Archeological Site.
2. No funds appropriated in category (45) for a local assistance grant to the City of Santa Ana shall be encumbered unless and until the Director of Parks and Recreation determines that the city has committed at least $400,000 of nonstate funds to the renovation of Madison Park.

3790-101-262—For local assistance, Department of Parks and Recreation, payable from the Habitat Conservation Fund, to be available for expenditure during the 1990–91, 1991–92 and 1992–93 fiscal years 3,500,000

Schedule:

(1) 50.20.262.801-Solano County, King Ranch..... 1,100,000
(2) 50.20.262.802-Monterey County, Monterey Peninsula Regional Park District-Santa Lucia Mountain Range..... 1,500,000
(3) 50.20.262.803-Mission Trails RP Foundation, San Diego County, Mission Trails Regional Park Development..... 900,000

Provisions:

1. Of the amount appropriated in this item, $1,100,000 shall be allocated to Solano County for a 50 percent match to other funds for the purchase of the King Ranch.
2. The funds appropriated in this item shall be used for purposes consistent with the requirements of the Unallocated Account, Cigarette and Tobacco Products Surtax Fund, and the Habitat Conservation Fund.
3. Of the amount appropriated in this item, $900,000 shall be allocated to the Mission Trails Recreation and Park Foundation, San Diego County, for a 50 percent match to other funds for the Mission Trails Regional Park.

Item		Amount
3790-101-263—For grants to cities, counties, or special districts, and for cooperative agreements with federal agencies, as specified in Division 5 (commencing with Section 5001) of the Public Resources Code, Department of Parks and Recreation, payable from the Off-Highway Vehicle Fund, to be available for expenditure during the 1990–91, 1991–92 and 1992–93 fiscal years		11,904,000
Schedule:		
BLM-California State Office		
(1) 35.01.001-Statewide OHV Program coordination	221,000	
BLM-Yuma District		
(2) 35.02.001-Parker Strip Development	147,000	
BLM-Bakersfield District		
(3) 35.03.007-Bishop Resource Area O&M-1991	130,000	
(4) 35.03.008-Hollister Resource Area O&M-1991	93,000	
(5) 35.03.009-North Bishop Route Designation	74,000	
BLM-California Desert District		
(6) 35.06.033-Desert Access Signing II	97,000	
(7) 35.06.034-Barstow Open Area O&M-1991	200,000	
(8) 35.06.035-El Centro Resource Area O&M-1991	702,000	
(9) 35.06.036-Ridgecrest Resource Area O&M-1991	158,000	
(10) 35.06.037-El Mirage O&M-1991	454,000	
(11) 35.06.038-Desert Access Priority Analysis	75,000	
(12) 35.06.039-California Desert Tortoise Protection	110,000	
(13) 35.06.040-El Mirage Acquisition-1991	1,750,000	
(14) 35.06.041-El Mirage Development-1991	280,000	
(15) 35.06.042-Smugglers Cave Access II	22,000	
(16) 35.06.043-San Felipe Acquisition III	225,000	
(17) 35.06.044-Buttercup/Grays Well Restrooms	257,000	
(18) 35.06.045-Mojave Road III	347,000	

Item	Amount
(19) 35.06.046-Jawbone Development II	254,000
BLM-Susanville District	
(20) 35.09.004-Eagle Lake Resource Area O&M-1991	56,000
BLM-Ukiah District	
(21) 35.12.010-Clear Lake Resource Area O&M-1991	166,000
(22) 35.12.011-Redding Resource Area O&M-1991	116,000
(23) 35.12.012-Arcata Resource Area O&M-1991	43,000
(24) 35.12.013-Oakwood Springs Development	251,000
USFS-Angeles National Forest	
(25) 35.15.015-Forestwide O&M-1991	205,000
USFS-Cleveland National Forest	
(26) 35.18.009-Forestwide O&M-1991.	78,000
USFS-Eldorado National Forest	
(27) 35.21.009-Forestwide O&M-1991.	182,000
USFS-Inyo National Forest	
(28) 35.24.010-Forestwide O&M-1991.	111,000
(29) 35.24.011-Inyo/BLM OHV/OSV Plan II	105,000
(29.1) 35.24.012—Monache-Phase I Development	86,000
USFS-Klamath National Forest	
(30) 35.27.014-Goosenest O&M-1991...	33,000
(31) 35.27.015-Goosenest Snow Shelters	24,000
USFS-Lake Tahoe Basin	
(32) 35.30.005-LTBMU O&M-1991.....	77,000
(33) 35.30.006-LTBMU Resource Mgmt-1991	97,000
USFS-Lassen National Forest	
(34) 35.33.009-Forestwide O&M-1991.	70,000
(35) 35.33.010-Jonesville Trailhead	61,000
(36) 35.33.011-Swain Mountain Trailhead	60,000
(37) 35.33.012-Mill Creek OHV Crossing	11,000
USFS-Los Padres National Forest	
(38) 35.36.017-Forestwide O&M-1991.	235,000
(39) 35.36.018-Santa Barbara RD Resource Mgmt-1991	26,000

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(40) 35.36.019-SLO County Route Rehab	43,000
USFS-Mendocino National Forest	
(41) 35.39.010-Mendocino Corridor-Phase III	572,000
(42) 35.39.011-Forestwide O&M-1991.	236,000
USFS-Plumas National Forest	
(43) 35.42.012-Forestwide O&M-1991.	128,000
(44) 35.42.013-Plumas Resource Management-1991	31,000
(45) 35.42.014-Plumas Planning	63,000
(46) 35.42.015-Plumas OHV Signing	60,000
(47) 35.42.016-Merrimac OHV/OSV Park	133,000
(48) 35.42.017-La Porte Phase III	37,000
USFS-San Bernardino National Forest	
(49) 35.45.012-Forestwide O&M-1991.	114,000
(50) 35.45.013-SBNF Resource Management-1991	33,000
(51) 35.45.014-John Bull Trail Planning	21,000
(52) 35.45.015-John Bull Trail Development	93,000
USFS-Sequoia National Forest	
(53) 35.48.012-Forestwide O&M-1991.	75,000
(54) 35.48.013-Kern Plateau Snowmobile Program II	21,000
(55) 35.48.014-Sirretta Loop Trail	100,000
(55.1) 35.48.015—Tule River Motorcycle Development	276,000
USFS-Shasta/Trinity National Forest	
(56) 35.49.002-Pilgrim Creek Snowmobile Facility	93,000
USFS-Sierra National Forest	
(57) 35.51.006-Forestwide O&M-1991.	181,000
(58) 35.51.007-Winter Furbearers Study	62,000
USFS-Stanislaus National Forest	
(59) 35.54.006-Forestwide O&M-1991.	113,000
(60) 35.54.007-Stanislaus Resource Mgmt-1991	74,000
USFS-Tahoe National Forest	
(61) 35.57.008-Forestwide O&M-1991.	313,000
USFS-Toiyabe National Forest	
(62) 35.60.009-Toiyabe Maps and Signs	35,000

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(63) 35.60.010-Hope Valley O&M-1991	50,000	
(64) 35.60.011-Monitor Pass Development	190,000	
USFS-Pacific Southwest Region		
(65) 35.63.002-Regional OHV Coordinator-1991	118,000	
Butte County		
(66) 35.65.001-Butte Meadows O&M-90/91	97,000	
Humboldt County		
(67) 35.67.003-Humboldt Beach Patrol	68,000	
(68) 35.67.004-Beach and Dunes Plan II	80,000	
North Tahoe P.U.D.		
(69) 35.76.003-NTRP O&M-90/91	25,000	
Santa Clara County		
(70) 35.78.002-Motorcycle Park O&M-90/91	103,000	
(71) 35.78.003-Motorcycle Park Water System	195,000	
San Bernardino County		
(72) 35.79.004-Park Moabi O&M-90/91	20,000	
(73) 35.79.005-Cooper Mountain Planning	125,000	
(74) 35.79.006-Park Moabi Development	35,000	
Stanislaus County		
(75) 35.81.006-Stanislaus County O&M-90/91	72,000	
Sierra County		
(76) 35.82.002-Bassetts O&M-90/91	15,000	
San Benito County		
(77) 35.83.002-Cienega Road Realignment	115,000	

PARKLANDS FUND OF 1980

3790-101-721—For local assistance, Department of Parks and Recreation, payable from the Parklands Fund of 1980, to be available for expenditure during the 1990–91, 1991–92, and 1992–93 fiscal years.	289,000

Item		Amount
Schedule:		
(3) 50.20.721.803-Foster City, San Mateo County, Boothbay and Catamaran Parks Rehabilitation.....	289,000	

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM OF 1984

3790-101-722—For local assistance, Department of Parks and Recreation, payable from the Parklands Fund of 1984.....		61,000
Schedule:		
(1) 25.30.722.900 County of Trinity, Completion of Old Lewiston Schoolhouse Project in Lewiston.	61,000	
3790-101-733—For local assistance, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.....		25,000
Schedule:		
(1) 50.20.733.809-East Bay RPD, Alameda County, Hayward Regional Shoreline Development....	25,000	

STATE URBAN AND COASTAL PARK FUND

3790-101-742—For local assistance, Department of Parks and Recreation, payable from the State Urban and Coastal Park Fund, to be available for expenditure during the 1990–91, 1991–92, and 1992–93 fiscal years		485,000
Schedule:		
(3) 50.20.742.805-City of Cudahy, Los Angeles County, Clara Street Park Community Center Expansion	325,000	
(4) 50.20.742.806-County of Tulare, Mooney Grove Park Museum Improvements	60,000	
(5) 50.20.742.807-City of Ojai, Ventura County, Sarzotti Park Renovation	50,000	
(6) 50.20.742.809-City of Chico, Butte County, Honey Run Covered Bridge	50,000	

Item			Amount
CALIFORNIA WILDLIFE, COASTAL, AND PARK LAND CONSERVATION PROGRAM			
3790-101-786—For local assistance, Department of Parks and Recreation, payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988, to be available for expenditure during the 1990–91, 1991–92 and 1992–93 fiscal years..			29,033,000
Schedule:			
(1) 50.20.786.200-Per Capita Program grants		21,183,000	
(2) 50.20.786.400-Park and Recreation Opportunity grants		5,388,000	
(3) 50.20.786.600-Trails Program grants		2,462,000	
3790-101-890—For local assistance, Department of Parks and Recreation, payable from the Federal Trust Fund, to be available for expenditure during the 1990–91, 1991–92 and 1992–93 fiscal years			2,325,000
Schedule:			
(1) 50.20.890-Land and Water Conservation Fund Act of 1965		2,000,000	
(2) 25.20.891-National Historic Preservation Act of 1966		325,000	
3790-111-716—For local assistance, Department of Parks and Recreation, for purpose of paying a prior year deficiency caused by the transfer of funds to the State Controller and the State Treasurer for administrative costs, payable from the Community Parklands Fund			(3,000)
3790-301-140—For capital outlay, Department of Parks and Recreation, payable from the California Environmental License Plate Fund			125,000
Schedule:			
(1) 90.9Z.100-South Yuba Independence Trail: Bridge Replacement —Preliminary plans, working drawings and construction		125,000	
3790-301-235—For capital outlay, Department of Parks and Recreation, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund			3,777,000
Schedule:			
(2) 90.RS.205-Statewide: Minor Projects		3,500,000	

Item		Amount
(3) 90.CS.407.900-Monterey SB: Del Monte Beach Lots-Acquisition study	20,000	
(4) 90.A8.400-Tehachapi Archaeological Site Complex—Acquisition	250,000	
3790-301-262—For capital outlay, Department of Parks and Recreation, payable from the Habitat Conservation Fund		1,000,000
Schedule:		
(1) 90.8D.400—Donner Memorial SP: Nature Conservancy—Acquisition	1,000,000	
Provisions:		
1. Funds appropriated in category (1) of this item shall be expended only for state park acquisitions in Donner Memorial State Park.		
2. The funds appropriated in this item shall be used for purposes consistent with the requirements of the Unallocated Account, Cigarette and Tobacco Products Surtax Fund, and the Habitat Conservation Fund.		
3790-301-263—For capital outlay, Department of Parks and Recreation, payable from the Off-Highway Vehicle Fund		1,659,000
Schedule:		
(1) 90.EH.610-Hungry Valley SVRA: Initial Development—Preliminary plans and working drawings	273,000	
(2) 90.C7.410-Ocotillo Wells SVRA: State Lands Commission Property—Acquisition	625,000	
(3) 90.RS.605-Statewide: Budget Package/Schematic Planning	50,000	
(4) 90.RS.206-Statewide: Minor Projects	561,000	
(5) 90.RS.403-Statewide: Opportunity Purchase—Acquisition	100,000	
(6) 90.RS.404-Statewide: Pre-Budget Appraisal Costs—Planning	50,000	
Provisions:		
1. Funds appropriated in category (3) of this item shall be used to develop design and/or cost information for new projects for which funds have not been appropriated previously, but which are anticipated to be included in the 1991–92 or 1992–93 Governor's Budget.		

Item			Amount
2. Funds appropriated in category (6) of this item shall be used to develop cost information for new acquisition projects for which funds have not been appropriated previously, but which are anticipated to be included in the 1991–92 or 1992–93 Governor's Budget. In addition, these funds may also be used for other acquisition related administrative costs.			
3790-301-392—For capital outlay, Department of Parks and Recreation, payable from the State Parks and Recreation Fund			788,000
Schedule:			
(1) 90.AC.600-Old Sacramento SHP: Museum of Railroad Technology—Preliminary plans		728,000	
(2) 90.RS.205-Statewide: Consolidated Dispatch Centers—Minor Projects		25,000	
(3) 90.RS.225 Statewide: Retrofit Visitor Services Facilities—Minor Projects		35,000	

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM

3790-301-721—For capital outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1980			1,203,000
Schedule:			
(1) 90.E4.605-Chino Hills SP: Public Use Facilities—Preliminary plans and working drawings		219,000	
(2) 90.H6.605-Cuyamaca Rancho SP: Rehabilitation and Replacement of Worn Out Facilities—Preliminary plans and working drawings		131,000	
(3) 90.94.110-Stanford House SHP: Historic Preservation/Stabilization—Construction		428,000	
(4) 90.RS.245-Statewide: Archaeological Sites Rehabilitation—Minor Projects		225,000	
(5) 90.RS.255-Statewide: CCC Structures Historic Restoration—Minor Projects		200,000	

Item		Amount
PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM OF 1984		
3790-301-722—For capital outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1984		6,312,000
Schedule:		
(1) 90.6F.605-Angel Island SP: Seawall Reconstruction and Replacement—Preliminary plans and working drawings	202,000	
(1.1) 90.BA.105-Big Basin SP: Rehabilitate Sewage Collection System—Preliminary plans, working drawings, and construction	822,000	
(1.2) 90.5M.110-China Camp SP: Rehabilitate and Develop Day-Use Facilities—Construction	806,000	
(2) 90.GI.605-Crystal Cove SP: Sewer System Connection—Preliminary plans and working drawings	86,000	
(2.1) 90.EX.400 Malibu Creek SP: Phase II—Acquisition	1,100,000	
(3) 90.F6.205-Los Encinos SHP: Completion of Garnier House—Minor Project	115,000	
(4) 90.7Q.610-Montara SB: Access Improvements—Working drawings	172,000	
(5) 90.5N.606-Mount Diablo SP: Water System Rehabilitation—Preliminary plans and working drawings	211,000	
(6) 90.6W.605-Salt Point SP: Develop Day Use and Overnight Facilities—Preliminary plans and working drawings	120,000	
(7) 90.99.110-San Luis Reservoir SRA: Day Use and Campground Facilities—Construction	1,418,000	
(8) 90.RS.401-Statewide: Acquisition Costs	200,000	
(9) 90.RS.402-Statewide: Inholding Purchases—Acquisition	500,000	
(10) 90.RS.403-Statewide: Opportunity Purchases—Acquisition	500,000	
(11) 90.RS.404-Statewide: Pre-Budget Appraisal Costs—Planning	60,000	

Item		Amount
Provisions:		
1. Funds appropriated in category (11) of this item will be used to develop cost information for new projects for which funds have not been appropriated previously, but which are anticipated to be included in the 1991–92 or 1992–93 Governor's Budget.		
2. Funds appropriated in category (2.1) of this item shall be used to reimburse the Santa Monica Mountains Conservancy for the purchase of the Vernon Property at Malibu Creek SP (Malibu Canyon).		

CALIFORNIA WILDLIFE, COASTAL, AND PARK LAND CONSERVATION PROGRAM

3790-301-786—For capital outlay, Department of Parks and Recreation, payable from the California Wildlife, Coastal, and Park Land Fund of 1988		15,924,000
Schedule:		
(1) 90.68.605-Benicia SRA: Land Restoration and Landfill Closure—Preliminary plans	200,000	
(1.1) 90.FU.600.900-California Citrus SHP: Orientation Center and Historic Structures—Preliminary plans, working drawings, and construction	900,000	
(1.2) Reimbursements	−500,000	
(2) 90.9H.110-Colonel Allensworth SHP: Allensworth Hotel Reconstruction—Construction	429,000	
(3) 90.8U.605-Folsom Lake SRA: Rehabilitation and Replacement of Worn Out Facilities: Granite Bay —Preliminary plans and working drawings	138,000	
(3.5) 90.DQ.110-Hearst San Simeon SHM: Additional Water Storage —Construction and agency retained	1,465,000	
(4) 90.EC.100-Kenneth Hahn SRA: Continuing Ridge Area Development—Preliminary plans, working drawings and construction	3,510,000	

Item	Amount
(5) 90.IH.100-Lake Perris SRA: Swimming Beach Cleanup—Preliminary plans, working drawings and construction	434,000
(6) 90.42.605-MacKerricher SP: Rehabilitation and Replacement of Worn Out Facilities—Preliminary plans and working drawings	142,000
(7) 90.CN.605-Monterey SHP: Pacific House Exhibits and Artifacts—Preliminary plans and working drawings	100,000
(8) 90.CN.110-Monterey SHP: Rehabilitation of Custom House Grounds and Beach Access/Causeway—Construction	644,000
(9) 90.RS.210-Statewide: Accessibility Expansion Program—Minor Projects	200,000
(10) 90.RS.605-Statewide: Budget Package/Schematic Planning	200,000
(11) 90.RS.240-Statewide: California Sno-Park Program—Minor Projects	865,000
(12) 90.RS.250-Statewide: Interpretive Exhibit and Artifact Rehabilitation—Minor Projects	550,000
(13) 90.RS.260-Statewide: Recreational Trails—Minor Projects	514,000
(14) 90.RS.230-Statewide: Stewardship Program—Minor Projects	3,320,000
(15) 90.RS.220-Statewide: Storm Damage Program—Minor Projects	400,000
(16) 90.RS.610-Statewide: Topographic Surveys—Planning	200,000
(17) 90.RS.235-Statewide: Volunteer Program—Minor Projects	955,000
(18) 90.CO.110-Wilder Ranch SP: Historic Restoration of Bunkhouse—Construction	608,000
(18.5) 90.CS.200-Monterey SB: Sand City Dunes Restoration—Minor Projects	150,000
(19) 90.5N.100—Mount Diablo SP: Visitor Center Exhibits—Preliminary plans, working drawings, and construction	250,000

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(19.1) 90.5Y.400—Candlestick Point SRA: Acquisition and preservation of wetlands 250,000

Provisions:

1. Funds appropriated in category (10) of this item will be used to develop design and/or cost information for new projects for which funds have not been appropriated previously, but which are anticipated to be included in the 1991–92 or 1992–93 Governor's Budget.
2. Funds appropriated in categories (12) and (13) of this item shall be available for expenditure until June 30, 1992.
3. Funds appropriated in category (14) of this item shall be available for expenditure until June 30, 1993.
4. Funds appropriated in category (3.5) of this item for the construction of increased water storage capacity at Hearst San Simeon State Historical Monument may not be encumbered until the Department of Parks and Recreation obtains water rights which would allow it to store sufficient quantities of water so that it can reasonably use the increased storage capacity of the one million gallon reservoir.
5. State funds appropriated in category (1.1) of this item shall be encumbered only if funds for one or more purposes specified in this item are donated from a private source or sources and only in an amount not to exceed the amount donated.

3790-301-890—For capital outlay, Department of Parks and Recreation, payable from the Federal Trust Fund..... 300,000

Schedule:

(1) 90.BA.405-Big Basin Redwoods SP: Sempervirens Fund Matching Program—Acquisition 300,000

3790-302-786—Of the amount appropriated in subparagraph (E) of paragraph (1) of subdivision (b) of Section 5907 of the Public Resources Code, $1,754,000 is hereby allocated, as of July 1, 1990, from the California Wildlife, Coastal, and Park Land Fund of 1988 to the Santa Monica Conservancy, pursuant to Section 5923 of the Public Resources Code, in accordance with the following:

Item		Amount
(1)	For transfer to the Habitat Conservation Fund for acquisition projects in the Santa Susana Mountains/Simi Hills	(1,000,000)
(2)	For acquisition projects in the Santa Susana Mountains/Simi Hills	(254,000)
(3)	For acquisition projects in the Santa Clarita Woodlands	(500,000)

Provisions:

1. The funds transferred by category (1) of this item shall be used for purposes consistent with the requirements of the California Wildlife, Coastal, and Park Land Fund of 1988 and the Habitat Conservation Fund.

3790-401—For the 1990–91 fiscal year, the balance as of July 1, 1990, deposits in, and accruals to the Conservation and Enforcement Services Account in the Off-Highway Vehicle Fund shall be transferred by the State Controller to the Off-Highway Vehicle Fund. All funds transferred pursuant to this item shall be available for expenditure by the Department of Parks and Recreation for purposes of conservation and enforcement activities pursuant to Sections 23 and 25 of Chapter 1027, Statutes of 1987 which are authorized for expenditure within Items 3790-001-263, 3790-101-263, and 3790-301-263. The State Controller shall make the transfers quarterly or at such intervals as determined necessary to meet the cash-flow needs of the Off-Highway Vehicle Fund.

It is the intent of the Legislature that the Off-Highway Vehicle Fund will be utilized for appropriations to fund all Off-Highway Vehicle Recreation programs including conservation and enforcement activities. This intent recognizes that the funds in the Conservation and Enforcement Services Account may not be sufficient for the purposes of conservation and enforcement activities required pursuant to Chapter 1027, Statutes of 1987.

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3790-402—For the Department of Parks and Recreation: provision (3) of Item 3790-301-721(6), Budget Act of 1989, is amended to read as follows:

The balance of the amount appropriated in category (6) may be used for the purchase of coastal parcels located in the sand dunes west of State Highway Route 1 in the Sand City area of South Monterey Bay Dunes.

3790-490—Reappropriation, Department of Parks and Recreation. The balances of the appropriations provided in the following citations are reappropriated for the purposes (and subject to the limitations unless otherwise specified) provided for in the appropriations:

263—Off-Highway Vehicle Fund

(1) Item 3790-805-263(d), Chapter 1241, Statutes of 1989, 90.EH.605.890, Hungry Valley SVRA: Quail Canyon—Preliminary Plans and Working Drawings.

392—State Park and Recreation Fund

(1) Item 3790-301-392(2), Budget Act of 1987, 90.AC.400, Old Sacramento SHP—Engineering Building Site—Acquisition; provided that the funds may be used to purchase the Raney Well parcel and to lease for a 99-year period two parcels owned by the Redevelopment Agency of the City of Sacramento and to pay associated administrative costs and that the amount shall not exceed $534,000.

721—Parklands Fund of 1980

(1) Item 3790-301-721(1), Budget Act of 1988, as reappropriated by Item 3790-490-721(6), Budget Act of 1989, 90.C5.605, Carmel River SB: Day Use and Parking Lot Facilities—Preliminary Plans and Working Drawings.

(2) Item 3790-301-721(4), Budget Act of 1989, 90.EB.105.890, Ventura Pier—Rehabilitation.

(3) Item 3790-302-721(1), Budget Act of 1989, as added by Chapter 1241/89, 90.5X.100.890, Marconi Conference, Construction and Site Improvements—Construction.

722—Parklands Fund of 1984

(1) Item 3790-301-722(6), Budget Act of 1987, 90.BA.400, Big Basin Redwoods SP, Sempervirens—Acquisition; provided that the funds may be used on a matching basis with nonstate funding sources for the acquisition of par-

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cels located within the State Park and Recreation Commission's approved boundary for Big Basin Redwoods SP.

(2) Item 3790-301-722(19) (c), Budget Act of 1986, as reappropriated by Item 3790-490-722 (34), Budget Act of 1989, 90.F2.100, Gaviota SP: Campground and Day Use—Rehabilitation and Replacement of Worn Out Facilities.

(3) Item 3790-301-722(26), Budget Act of 1987, as reappropriated by Item 3790-490-722(43), Budget Act of 1989, 90.H9.100, San Diego Coast SB, South Cardiff SB: Day Use Rehabilitation —Working Drawings and Construction.

(4) Item 3790-301-722(29), Budget Act of 1987, as reappropriated by Item 3790-490-722(45), Budget Act of 1989, 90.14.100, South Carlsbad SB: Administration/Maintenance Center and Day-Use Facilities—Construction.

(5) Item 3790-301-722(2), Budget Act of 1989, 90.6F.115, Angel Island SP: Water System Connection—Preliminary Plans, Working Drawings, and Construction.

(6) Item 3790-301-722(5), Budget Act of 1989, 90.FU.605, California Citrus SHP: Schematic Planning and Artifact Acquisition.

(7) Item 3790-301-722(6), Budget Act of 1989, 90.5M.605, China Camp SP: Rehabilitation and Development of Day Use Facilities—Preliminary Plans and Working Drawings.

728—Recreation and Fish and Wildlife Enhancement Fund

(1) Item 3790-301-728(1), Budget Act of 1989, as added by Chapter 1241/89, 90.47.100.890, Lake Oroville SRA/Lime Saddle Project, Infrastructure Development—Preliminary Plans, Working Drawings, and Construction.

786—California Wildlife, Coastal, and Park Land Conservation Fund of 1988

(1) Item 3790-302-786(1), Budget Act of 1989, as added by Chapter 1241/89, 90.FU.100.890, California Citrus State Historic Park: Immediate Public Use Facilities—Preliminary Plans, Working Drawings, and Construction.

(2) Item 3790-302-786(2), Budget Act of 1989, as added by Chapter 1241/89, 90.AN.605.890, Empire Mine SHP: Renovation—Preliminary Plans, Working Drawings, and Studies.

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(3) Item 3790-302-786(3), Budget Act of 1989, as added by Chapter 1241/89, 90.EC.102.890, Kenneth Hahn SRA: Development—Preliminary Plans, Working Drawings, and Construction.

(4) Item 3790-302-786(4), Budget Act of 1989, as added by Chapter 1241/89, 90.IJ.205.890, Old Town San Diego SHP: Comfort Stations—Construction.

(5) Item 3790-302-786(5), Budget Act of 1989, as added by Chapter 1241/89, 90.8L.505.890, State Indian Museum: Study Concept.

(6) Item 3790-301-786(17), Budget Act of 1989, 90.CG.105, Pfeiffer Big Sur SP: Multiagency Facility, Phase II—Construction.

742—State Urban and Coastal Park Fund

(1) Item 3790-301-742(7), Budget Act of 1987, 90.E4.400, Chino Hills SP, Slaughter Canyon —Acquisition.

Provisions:

1. The project included in the Parklands Fund of 1980, Schedule (2), Item 3790-301-721(4), Budget Act of 1989, 90.EB.105.890, Ventura Pier —Rehabilitation, shall be available until June 30, 1991.
2. The funds reappropriated in the California Wildlife, Coastal, and Parkland Conservation Fund of 1988, Schedule (5), Item 3790-302-786(5), Budget Act of 1989, as added by Chapter 1241 of the Statutes of 1989, 90.8L.505.890, shall be used by the Department of Parks and Recreation for the purpose of completing an architectural and operational program for a new State Indian Museum which includes the estimated cost to complete the museum and a schedule for implementation and completion of the museum. This program document shall be completed and submitted to the Legislature by January 31, 1991.

3790-491—Reappropriation, Department of Parks and Recreation. Notwithstanding any other provisions of law, the balances of the appropriations provided in the following citations are reappropriated for the purposes (and subject to the limitations unless otherwise specified) provided for in such appropriations, and shall be available for expenditure until June 30, 1992:

Item	Amount
140—California Environmental License Plate Fund	
(1) Item 3790-101-140(1), Budget Act of 1985, as reappropriated by Item 3790-491-140(1), Budget Act of 1988 as reappropriated by Item 3790-491-140(1), Budget Act of 1989, City of Walnut Creek Alexander Lindsay Junior Museum Association.	
(2) Item 3790-101-140(1), Budget Act of 1989. 50.20.140.901 California State Parks Foundation, Jack London Ranch-Restoration, construction.	
(3) Item 3790-101-140(2), Budget Act of 1989. 50.20.140.902 Museum of Science and Industry Foundation, Our Urban Environment Exhibit, construction.	
722—Parklands Fund of 1984	
(1) Item 3790-101-722(1), Budget Act of 1989, as added by Chapter 8, Statutes of 1989, 1st Extraordinary Session, Section 5. 25.30.722.891 County of San Mateo, San Mateo County Courthouse.	
(2) Item 3790-101-722(2), Budget Act of 1989, as added by Chapter 8, Statutes of 1989, 1st Extraordinary Session, Section 5. 25.30.722.892 City of Oakland, Oakland City Hall.	
(3) Item 3790-101-722(3), Budget Act of 1989, as added by Chapter 8, Statutes of 1989, 1st Extraordinary Session, Section 5. 25.30.722.893 City of San Francisco, San Francisco Civic Auditorium.	
(4) Item 3790-101-722(4), Budget Act of 1989, as added by Chapter 8, Statutes of 1989, 1st Extraordinary Session, Section 5. 25.30.722.894 City of Gilroy, Gilroy Old City Hall.	
(5) Item 3790-101-722(5), Budget Act of 1989, as added by Chapter 8, Statutes of 1989, 1st Extraordinary Session, Section 5. 25.30.722.895 County of Santa Cruz, Santa Cruz Valencia Hall.	
733—State Beach, Park, Recreation and Historical Facilities Fund	
(1) Item 3790-101-733(1), Budget Act of 1989, as added by Chapter 1241, Statutes of 1989, Section 8. 50.20.733.900 City of Los Angeles, Elysian Park.	
(2) Item 3790-101-733(2), Budget Act of 1989, as	

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added by Chapter 1241, Statutes of 1989, Section 8. 50.20.733.901 City of Burbank, Little Theatre.

(3) Item 3790-101-733(3), Budget Act of 1989, as added by Chapter 1241, Statutes of 1989, Section 8. 50.20.733.902 City of Campbell, Ainsley House.

(4) Item 3790-101-733(4), Budget Act of 1989, as added by Chapter 1241, Statutes of 1989, Section 8. 50.20.733.903 City of Fillmore, Shiells Park Lighting.

(5) Item 3790-101-733(5), Budget Act of 1989, as added by Chapter 1241, Statutes of 1989, Section 8. 50.20.733.904 City of Fresno, Agricultural Museum.

(6) Item 3790-101-733(6), Budget Act of 1989, as added by Chapter 1241, Statutes of 1989, Section 8. 50.20.733.905 County of Fresno, Lost Lake Recreation Area, Development.

(7) Item 3790-101-733(7), Budget Act of 1989, as added by Chapter 1241, Statutes of 1989, Section 8. 50.20.733.906 Mercy Family Housing-Historical.

(8) Item 3790-101-733(8), Budget Act of 1989, as added by Chapter 1241, Statutes of 1989, Section 8. 50.20.733.907 National City, San Diego Filipino Center.

786—California Wildlife, Coastal, and Park Land Fund Conservation Fund of 1988

(1) Item 3790-101-786(1), Budget Act of 1989, 25.30.786.500 Historical and Archeological Program grants.

(2) Item 3790-101-786(2), Budget Act of 1989, 50.20.786.200 Per Capita grants.

(3) Item 3790-101-786(3), Budget Act of 1989, 50.20.786.300 Roberti-Z'berg-Harris Urban Open-Space and Recreation Program grants.

(4) Item 3790-101-786(4), Budget Act of 1989, 50.20.786.400 Park and Recreation Opportunity grants.

(5) Item 3790-101-786(5), Budget Act of 1989, 50.20.786.600 Trails Program grants.

(6) Item 3790-101-786(11), Budget Act of 1989, 50.20.786.707 Apple Valley Recreation and Park District—Papago Park Development Project.

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3790-492—Reappropriation, Department of Parks and Recreation. Notwithstanding any other provisions of law, the balances of the appropriations provided in the following citations are reappropriated for the purposes, unless otherwise specified (and subject to the limitations unless otherwise specified), provided for in the appropriations, and shall be available for expenditure until June 30, 1991:

001—General Fund

(1) Item 3790-002-001, Budget Act of 1989, as added by Section 3, Chapter 8 of the Statutes of 1989, 1st Extraordinary Session-Emergency Earthquake Repair.

036—Special Account for Capital Outlay

(2) Item 3790-102-036, Budget Act of 1987, as added by Section 11 of Chapter 1408 of the Statutes of 1987 and amended by Section 2 of Chapter 22 of the Statutes of 1988. 50.20.036.086 City of San Buenaventura, Ventura Pier Refurbishing.

(3) Item 3790-102-036, Budget Act of 1987, as added by Section 11 of Chapter 1408 of the Statutes of 1987 and amended by Section 2 of Chapter 22 of the Statutes of 1988. 50.20.036.108 Nevada County Fair, acquisition of adjacent property. The remaining balance of acquisition funds are to be used solely for the purpose of capital improvements to the Nevada County Fairgrounds.

3790-495—Reversion, Department of Parks and Recreation. As of June 30, 1990, the unencumbered balances of the appropriations provided in the following citations shall revert to the fund balance of the fund from which the appropriation was made:

392—State Parks and Recreation Fund

(1) Section 12(a), Chapter 1384, Statutes of 1984, as reappropriated by Item 3790-490-392(1), Budget Act of 1989, 90.AC.400.851, Old Sacramento SHP—engineering facility, acquisition.

742—State, Urban and Costal Park Fund

(1) Item 443.2B(d), Budget Act of 1977, as added by Chapter 1109, Statutes of 1977, Garrapata Beach—acquisition.

786—California Wildlife, Coastal, and Park Land Fund of 1988

(1) Item 3790-301-786(12), Budget Act of 1989, 90.DQ.110 Hearst San Simeon SHM, Addi-

Item		Amount
tional Water Storage—Construction and Agency Retained Items.		
3790-496—Reversion, Department of Parks and Recreation. As of June 30, 1990, the unencumbered balances of the appropriations provided in the following citations shall revert to the fund balance of the fund from which the appropriations were made.		
263—Off-Highway Vehicle Fund		
(1) Item 3790-101-263(22), Budget Act of 1988, USFS Eldorado National Forest 35.21.005 Rock Creek O&M.		
(2) Item 3790-101-263(67), Budget Act of 1988, Madera County, 35.77.001 Madera County OHV Park.		
3810-001-001—For support of the Santa Monica Mountains Conservancy		216,000
Schedule:		
(a) 100000-Personal Services	519,000	
(b) 300000-Operating Expenses and Equipment	145,000	
(c) Reimbursements	−40,000	
(d) Amount payable from the Santa Monica Mountains Conservancy Fund (Item 3810-011-941)	−408,000	
3810-011-941—For support of the Santa Monica Mountains Conservancy, for payment to Item 3810-001-001, payable from the Santa Monica Mountains Conservancy Fund		408,000
3810-301-262—For Capital Outlay, Santa Monica Mountains Conservancy, payable from the Habitat Conservation Fund		10,000,000
Provisions:		
1. Of the funds appropriated in this item, $1,000,000 shall be used for acquisition projects in the Santa Susana Mountains/Simi Hills in accordance with the transfer to the Habitat Conservation Fund in category (1) of Item 3790-302-786.		
2. Of the funds appropriated in this item, $9,000,000 shall be used for purposes consistent with the requirements of the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 and the Habitat Conservation Fund.		

Item		Amount
3810-495—Reversion, Santa Monica Mountains Conservancy. As of June 30, 1990, the unencumbered balances of the appropriations provided in the following citations shall revert to the fund balance of the fund from which the appropriation was made;		
721—Parklands Acquisition and Development fund of 1980		
(1) Item 3810-301-721, Budget Act of 1989, as added by Chapter 1241, Statutes of 1989. 20.10.190.000 Malibu Canyon—Acquisition.		
722—Parklands Acquisition and Development fund of 1984		
(1) Item 3810-301-722, Budget Act of 1989, as added by Chapter 1241, Statutes of 1989. 20.10.160.000 Santa Susana Mountains Project—Acquisition. 20.10.190.000 Malibu Canyon —Acquisition. 20.10.191.000 Santa Clarita Woodlands—Acquisition.		
3820-001-001—For support of San Francisco Bay Conservation and Development Commission		1,700,000
Schedule:		
(a) 10-Bay Conservation and Development	1,900,000	
(b) Reimbursements	−200,000	
3860-001-001—For support of Department of Water Resources		32,694,000
Schedule:		
(a) 10-Continuing Formulation of the California Water Plan	23,372,000	
(b) 20-Implementation of the State Water Resources Development System	476,000	
(c) 30-Public Safety and Prevention of Damage	21,099,000	
(d) 40-Services	4,992,000	
(e) 50.01-Management and Administration	45,480,000	
(f) 50.02-Distributed Management and Administration	−45,480,000	
(g) Reimbursements	−6,751,000	
(h) Amount payable from the Special Account for Capital Outlay (Item 3860-001-036)	−90,000	
(i) Amount payable from the California Environmental License Plate Fund (Item 3860-001-140)	−2,736,000	

Item		Amount
(j)	Amount payable from the California Water Fund (Item 3860-001-144)	−1,181,000
(k)	Amount payable from the Delta Flood Protection Fund (Item 3860-001-176)	−1,404,000
(kx)	Amount payable from the Environmental Water Fund (Item 3860-001-244)	−1,000,000
(*l*)	Amount payable from the State Clean Water Bond Fund (Item 3860-001-740)	−27,000
(m)	Amount payable from the Water Conservation and Water Quality Bond Fund (Item 3860-001-744)	−228,000
(n)	Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Item 3860-001-786)	−245,000
(o)	Amount payable from the Water Conservation Bond Fund of 1988 (Item 3860-001-790)	−593,000
(p)	Amount payable from the Federal Trust Fund (Item 3860-001-890)	−1,474,000
(q)	Amount payable from the Renewable Resources Investment Fund (Item 3860-001-940)	−1,516,000

Provisions:

1. The amounts appropriated in Items 3860-001-001 to 3860-001-940, inclusive, shall be transferred to the Water Resources Revolving Fund (691) for direct expenditure in such amounts as the Department of Finance may authorize, including cooperative work with other agencies. The money so transferred shall be placed in a special account in that fund and shall not be available for expenditure after June 30, 1991. Any unencumbered balances shall be returned to the appropriate funds as of June 30, 1991. Expenditures for technical services and general management charged to programs from all support appropriations for the Department of Water Resources in this act shall not exceed $24,334,000 and $20,536,000, respectively, without prior approval of the Department of Finance.

Item	Amount
3860-001-036—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the Special Account for Capital Outlay.....	90,000
Provisions:	
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.	
3860-001-140—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the California Environmental License Plate Fund.....	2,736,000
Provisions:	
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.	
3860-001-144—For support of the Department of Water Resources, for payment to Item 3860-001-001, payable from the California Water Fund	1,181,000
3860-001-176—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the Delta Flood Protection Fund.....	1,404,000
Provisions:	
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.	
3860-001-235—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund.....	70,000
3860-001-244—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the Environmental Water Fund.....	1,000,000
Provisions:	
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.	
3860-001-740—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the 1984 State Clean Water Bond Fund.....	27,000
Provisions:	
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.	
3860-001-744—For support of the Department of Water Resources, for payment to Item 3860-001-001, payable from the 1986 Water Conservation and Water Quality Bond Fund.....	228,000
Provisions:	
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.	

Item Amount

CALIFORNIA WILDLIFE, COASTAL, AND PARK LAND CONSERVATION PROGRAM

3860-001-786—For support of the Department of Water Resources, for payment to Item 3860-001-001, payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 for the California Wildlife, Coastal, and Park Land Conservation Program 245,000

Provisions:

1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.

3860-001-790—For support of the Department of Water Resources, for payment to Item 3860-001-001, payable from the 1988 Water Conservation Bond Fund..... 593,000

Provisions:

1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.

3860-001-890—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the Federal Trust Fund 1,474,000

Provisions:

1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.

3860-001-940—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the Renewable Resources Investment Fund..... 1,516,000

Provisions:

1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.

3860-005-144—For support of Department of Water Resources, payable from the California Water Fund, for transfer to the Delta Flood Protection Fund .. (12,000,000)

3860-006-144—For support of Department of Water Resources, payable from the California Water Fund, for transfer to the Environmental Water Fund .... (1,000,000)

3860-101-140—For local assistance, Department of Water Resources, payable from the California Environmental License Plate Fund 25,000

Schedule:

(a) 500008-Lake Success Study..... 25,000

3860-101-176—For local assistance, Department of Water Resources, Program 30.20-Flood Control Subventions, payable from the Delta Flood Protection Fund..... 10,603,000

Item		Amount
Provisions:		
1. The funds appropriated in this item shall be spent in accordance with, and subject to, the provisions of the Delta Flood Protection Act of 1988 (Chapter 28, Statutes of 1988).		
2. The funds appropriated in this item may be spent on the recommended interim actions set forth in the Plan of Action for Flood Control for the Towns of Thornton and Walnut Grove, February 1989.		
3860-101-235—For local assistance, Department of Water Resources, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		355,000
Schedule:		
(a) Wildcat Creek Flood Control Project	100,000	
(b) Urban Streams Grants Program	5,000	
(c) Grasslands Water District: Wetlands Maintenance	250,000	
3860-101-036—For local assistance, Department of Water Resources, Program 30.20—Flood Control Subventions, payable from the Special Account for Capital Outlay		45,900,000
Provisions:		
1. The funds appropriated in this item shall be available for partial payment (90 percent of the amount recommended by the Department of Water Resources) of claims for reimbursement following a completed engineering review by the Department of Water Resources. The remaining portion of the claims shall be paid after an audit has been completed by the Controller's office. Funds available in this item shall be available in the final quarter of the fiscal year for payment of advance claims only after the necessary funds are first committed to paying reimbursement claims that will be ready for payment in 1990–91. No expenditures shall be made until the local organizations give assurances that they will maintain and operate the projects after completion in a manner which will accomplish the purposes for which the projects were authorized and constructed and as may be required by the federal agencies concerned and the Department of Water Resources, and that the local organizations will hold and save the State of Cal-		

Item		Amount
ifornia free from damages or claims due to the construction, installation, or operation and maintenance of the project.		
2. The funds appropriated in this item are for expenditure by the Department of Water Resources, in accordance with Chapters 1 (commencing with Section 12570), 2 (commencing with Section 12639), 3 (commencing with Section 12800), 3.5 (commencing with Section 12840), and 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code, for payment of, and for reimbursement for necessary advances made for, the cost of cooperation by the state for major flood control projects adopted by the Legislature, for small flood control projects approved under Section 12750 of the Water Code, and for watershed protection and flood prevention projects as authorized pursuant to Chapter 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code, and administrative costs.		
3860-101-744—For local assistance, Department of Water Resources, Program 10.25-Water Conservation, payable from the 1986 Water Conservation and Water Quality Bond Fund		16,500,000

CALIFORNIA WILDLIFE, COASTAL, AND PARK LAND CONSERVATION PROGRAM

3860-101-786—For local assistance, Department of Water Resources, Program 10.10-Water Management Planning, payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 for the California Wildlife, Coastal, and Park Land Conservation Program		1,000,000
3860-101-790—For local assistance, Department of Water Resources, Program 10.25-Water Conservation, payable from the Water Conservation Bond Fund of 1988		15,808,000
3860-301-036—For capital outlay, Department of Water Resources, payable from the Special Account for Capital Outlay		7,050,000
Schedule:		
(1) 30.95.010—Sacramento River Bank Project	1,200,000	
(2) 30.95.080—Sacramento Urban Area Levee Rehabilitation	3,700,000	

Item Amount

(3) 30.95.100—Fremont Weir Sediment Removal 2,150,000

Provisions:

1. The amounts appropriated in categories (1) to (3), inclusive, of this item are for acquisition of land, easements, and rights-of-way, including, but not limited to, borrow pits, spoil areas, and easements for levees, clearing, flood control works, and flowage, and for appraisals, surveys, and engineering studies necessary for the completion or operation of the projects in the Sacramento and San Joaquin watersheds as authorized by Section 8617.1 and Chapters 1 (commencing with Section 12570), 2 (commencing with Section 12639), 3 (commencing with Section 12800), 3.5 (commencing with Section 12840), and 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code. The amounts appropriated in categories (1) to (3), inclusive, are also for advances to the federal government or payments to the federal government or others for incidental construction or reconstruction items which are an obligation of the state in connection with the completion or operation of the projects and for materials and necessary construction, reconstruction, relocation, or alterations to highways, railroads, bridges, powerlines, communication lines, pipelines, irrigation works, and other structures and facilities and for appraisals, surveys, and engineering studies incidental thereto.
2. The funds appropriated in category (3) of this item include funding for preliminary plans, working drawings, construction supervisioin, contract administration, and other work activities to be performed by Department of Water Resources personnel in completion of the projects.
3. Notwithstanding the provisions of Section 28.00, funds may be transferred, with the approval of the Department of Finance, between projects specified in categories (1) to (3), inclusive, of this item. The Director of Finance shall notify, in writing, the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget

Item		Amount
Committee, or his or her designee, may determine prior to any transfer.		
3860-301-235—For capital outlay, Department of Water Resources, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		250,000
Schedule:		
(1) 30.95.025—Sacramento River Riparian Purchases	250,000	
Provisions:		
1. The riparian vegetation acquired with these funds shall be permanently managed to preserve the existing habitat value.		
2. The Reclamation Board shall enter into an agreement with a suitable, experienced nonprofit land management or land stewardship organization to manage the land acquired with these funds for the protection of natural riparian vegetation and wildlife habitat.		
3860-496—Reversion, Department of Water Resources. As of June 30, 1990, the unencumbered balance of the appropriation provided in the following citation shall revert to the fund balance of the fund from which the appropriation was made:		
036—Special Account for Capital Outlay		
(1) Item 3860-301-036(7), Budget Act of 1987 as reappropriated by Item 3860-491, Budget Act of 1988 as reappropriated by Item 3860-491, Budget Act of 1989—30.95.065, Cache Slough Project.		
3940-001-001—For support of State Water Resources Control Board		39,653,000
Schedule:		
(a) 10-Water Quality	82,002,000	
(b) 20-Water Rights	8,529,000	
(c) 30.01-Administration	9,163,000	
(d) 30.02-Distributed Administration	−9,163,000	
(e) Reimbursements	−3,410,000	
(f) Amount payable from the Hazardous Waste Control Account, General Fund (Item 3940-001-014)	−544,000	
(g) Amount payable from the Waste Discharge Permit Fund (Item 3940-001-193)	−1,952,000	

Item		Amount
(h) Amount payable from the Environmental Protection Trust Fund (Item 3940-001-225)	−2,126,000	
(i) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3940-001-235)	−764,000	
(j) Amount payable from the Underground Storage Tank Tester Account (Item 3940-001-436)	−272,000	
(k) Amount payable from the Underground Storage Tank Cleanup Fund (Item 3940-001-439)	−6,102,000	
(*l*) Amount payable from the Underground Storage Tank Fund (Item 3940-001-475)	−1,163,000	
(m) Amount payable from the Surface Impoundment Assessment Account, General Fund (Item 3940-001-482)	−3,033,000	
(n) Amount payable from the 1984 State Clean Water Bond Fund (Item 3940-001-740)	−522,000	
(o) Amount payable from the 1986 Water Conservation and Water Quality Bond Fund (Item 3940-001-744)	−283,000	
(p) Amount payable from the 1988 Clean Water and Water Reclamation Fund (Item 3940-001-764)	−626,000	
(q) Amount payable from the Federal Trust Fund (Item 3940-001-890)	−30,081,000	
3940-001-014—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Hazardous Waste Control Account, General Fund		544,000
3940-001-193—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Waste Discharge Permit Fund		1,952,000
3940-001-225—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Environmental Protection Trust Fund		2,126,000
3940-001-235—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		764,000

Item	Amount
3940-001-436—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Underground Storage Tank Tester Account	272,000
3940-001-439—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Underground Storage Tank Cleanup Fund	6,102,000
3940-001-475—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Underground Storage Tank Fund	1,163,000
Provisions: 1. Pursuant to subdivision (b) of Section 25287 of the Health and Safety Code, the surcharge to be included in the fee paid to a local agency by each person who submits an application for a permit to operate an underground storage tank shall be $56 per tank, during the 1990–91 fiscal year. This surcharge shall be transmitted to the State Water Resources Control Board and deposited in this Underground Storage Tank Fund.	
3940-001-482—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Surface Impoundment Assessment Account, General Fund	3,033,000
3940-001-740—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the 1984 State Clean Water Bond Fund	522,000
3940-001-744—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the 1986 Water Conservation and Water Quality Bond Fund	283,000
3940-001-764—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the 1988 Clean Water and Water Reclamation Fund	626,000
3940-001-890—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Federal Trust Fund	30,081,000
3940-011-740—For transfer by the Controller from the 1984 State Clean Water Bond Fund to the State Water Pollution Control Revolving Fund created pursuant to Section 13477 of the Water Code	1,400,000

Item			Amount
3940-101-439—For local assistance, State Water Resources Control Board, payable from the Underground Storage Tank Cleanup Fund			4,327,000
3940-101-744—For local assistance, State Water Resources Control Board, payable from the 1986 Water Conservation and Water Quality Bond Fund			24,000,000
3940-101-890—For local assistance, State Water Resources Control Board, payable from the Federal Trust Fund			5,181,000
Schedule:			
(a) 10-Water Quality		5,589,000	
(b) Reimbursements		−408,000	
Provisions:			
1. Of the amount appropriated by this item, the State Water Resources Control Board may transfer up to $408,000 to, and in augmentation of, Item 3940-001-890, Program 10, Water Quality, for the purposes of abatement of the effects of unauthorized releases from underground storage tanks. Notwithstanding any other provision of law, state funds transferred pursuant to this item shall not be required to be cost-recovered in the 1990–91 fiscal year.			
3940-490—Reappropriation, State Water Resources Control Board. Notwithstanding any other provision of law, $190,000 of the amount appropriated in paragraph (4) of subdivision (a) of Section 4 of Chapter 1241 of the Statutes of 1989 is reappropriated, provided that the appropriation shall be available for support costs.			
3940-496—Reversion, State Water Resources Control Board. As of June 30, 1990, $68,000 of the amount appropriated in paragraph (4) of subdivision (a) of Section 4 of Chapter 1241 of the Statutes of 1989 shall revert to the General Fund.			

HEALTH AND WELFARE

4100-001-890—For support of the State Council on Developmental Disabilities, payable from the Federal Trust Fund			4,977,000
Schedule:			
(a) 10-State Council Operations		1,107,000	
(b) 20-Community Program Development		1,266,000	
(c) 30-Allocation to Area Boards		2,604,000	

Item		Amount
Provisions:		
1. In the event federal funds are available to the state council in excess of the amounts appropriated in this item, the additional funds shall be used only for the following purposes, unless the funds are specifically designated by federal law for other purposes:		
(a) To augment the allocation to the Program Development Fund.		
(b) To fund the costs of salary and benefit increases approved by the Legislature that exceed the Budget Act appropriation.		
2. Of the amount appropriated by this item, $100,000 shall be used for the first year of a three-year study of the Community Placement Plan to be performed by the Program Evaluation Unit of the Department of Finance. The study shall be based on a project design commissioned and approved by the State Council on Developmental Disabilities. The study shall provide for an active role for primary consumers in terms of conducting interviews and assessing the quality of programs. By June 30, 1991, a preliminary report detailing the second year workplan shall be provided by the Program Evaluation Unit directly to the State Council on Developmental Disabilities, and to the Legislature. In the event that these funds are not allocated on or before January 1, 1991, the funds shall be transferred to Program 20—Community Program Development.		
4110-001-001—For support of Area Boards on Developmental Disabilities		0
Schedule:		
(a) 10-Area Board Services	2,604,000	
(b) Reimbursements	−2,604,000	
4120-001-001—For support of Emergency Medical Services Authority		1,319,000
Schedule:		
(a) 10-Emergency Medical Services Authority	1,759,000	
(b) Reimbursement	−28,000	
(c) Amount payable from the Federal Trust Fund (Item 4120-001-890)	−270,000	
(d) Amount payable from the Emergency Medical Services Personnel Fund (Item 4120-001-312)	−142,000	

Item	Amount
Provisions:	
1. The Emergency Medical Services (EMS) Authority shall use the following guidelines in administering state-funded grants to local agencies: (a) funding eligibility shall be limited to rural multicounty regions that demonstrate a heavy use of the EMS system by nonresidents, (b) local agencies shall provide matching funds of at least $1 for each dollar of state funds received, (c) state funding shall be used to provide only essential minimum services necessary to operate the system, as defined by the authority, (d) no region shall receive both federal and state funds in the same fiscal year for the same purpose, and (e) the authority shall use a competitive process to award the funds and shall monitor the use of the funds by recipients to assure that these funds are used in an appropriate manner.	
2. Each region shall be eligible to receive up to one-half of the total cost of a minimal system for that region, as defined by the authority. However, the authority may reallocate unclaimed funds among regions.	
3. Notwithstanding Provision 1(b), regions with a population of 300,000 or less as of June 30, 1990, shall receive the full amount for which they are eligible if they provide a cash match of $0.41 per capita or more. Failure to provide local cash contributions at the specified level shall result in a proportional reduction in state funding.	
4. The EMS Authority fees for EMT-P testing and central registry shall not exceed $85 every two years for each EMT-P.	
4120-001-312—For support of Emergency Medical Services Authority, for payment to Item 4120-001-001, payable from the Emergency Medical Services Personnel Fund	142,000
4120-001-890—For support of Emergency Medical Services Authority, for payment to Item 4120-001-001, payable from the Federal Trust Fund	270,000
4120-101-001—For local assistance, Emergency Medical Services Authority, Program 10, grants to local agencies	3,229,000
Provisions:	
1. The General Fund support for poison control centers shall augment, but not replace, local ex-	

Item		Amount
	penditures for existing poison control center services. These funds shall be used primarily to increase services to underserved counties and populations and for poison prevention and information services. The Director of the Emergency Medical Services Authority may contract with eligible poison control centers for the distribution of these funds.	
	2. Of the augmentation of $172,000 to this item, $25,000 shall be for the North Coast Emergency Medical Services (EMS), $30,000 for the Northern California EMS, $46,000 for the Sierra-Sacramento Valley EMS, $41,000 for the Inland Counties EMS, and $30,000 for the Alpine, Mother Lode, and San Joaquin EMS.	
4120-101-890—For local assistance, Emergency Medical Services Authority, Program 10, payable from the Federal Trust Fund		1,471,000
4130-001-632—For support of the Health and Welfare Agency Data Center, payable from the Health and Welfare Agency Data Center Revolving Fund		70,083,000
	Provisions:	
	1. Notwithstanding any other provision of law, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item, no sooner than 30 days after notification in writing to the chairperson of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or no sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.	
	2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 11755 of the Government Code.	
	3. The Health and Welfare Agency Data Center shall use up to $50,000 of the funds appropriated under this item to support an existing telecommunications network which facilitates the delivery of services to hungry and homeless persons. The Health and Welfare Agency Data Center shall contract for this project without utilization of a competitive bidding process.	

Item		Amount
4130-301-632—For capital outlay, Health and Welfare Agency Data Center, payable from the Health and Welfare Agency Data Center Revolving Fund, in accordance with Provision 1.		
Provisions:		
1. Pursuant to Section 14669 of the Government Code, the Director of General Services, acting on behalf of the Health and Welfare Data Center, with the approval of the Director of Finance, may enter into a lease with an option to purchase a site and improvements providing 40,800 gross square feet of space (including 30,800 gross square feet of raised floor for computer operations and 10,000 gross square feet of office space) for a computer center annex. The lease with purchase option agreement shall provide for acquisition of the site and improvements on a competitive bid basis. Prior to advertising for competitive bids for development of site improvements and the lease with purchase option agreement, the State shall obtain an assignable option to acquire a site at a cost of $3,500,000 or at the State's appraisal value, whichever is less. The assignable option for the site shall then be incorporated into the competitive bid documents and assigned to the responsive low bidder for the combined site development and lease with purchase option.		
4140-001-001—For support of Office of Statewide Health Planning and Development		1,917,000
Schedule:		
(a) 100000-Personal Services	18,343,333	
(b) 300000-Operating Expenses and Equipment	17,958,667	
(c) 400000-Special Items of Expense	1,836,000	
(d) Reimbursements	−139,000	
(e) Amount payable from the Hospital Building Account, Architecture Public Building Fund, (Item 4140-001-121)	−23,990,000	
(f) Amount payable from the California Health Data and Planning Fund (Item 4140-001-143)	−7,598,000	
(g) Amount payable from the Registered Nurse Education Fund (Item 4140-001-181)	−614,000	

Item		Amount
(h) Amount payable from the Hospital Services Account, Cigarette and Tobacco Products Surtax Fund, (Item 4140-001-232)	−450,000	
(i) Amount payable from the Health Facilities Construction Loan Insurance Fund (Health and Safety Code Section 436.26)	−1,903,000	
(j) Amount payable from the Minority Health Professions Education Fund (Education Code Section 69800)	−1,527,000	

Provisions:

1. The office shall obtain approval of a special project report from the Department of Finance prior to purchasing $338,000 of personal computers from funds appropriated in Item 4140-001-121 of this act.
2. The office may not use contract funds for the seismic safety program to pay for services provided in fiscal years after the 1990–91 fiscal year.

4140-001-121—For support of Office of Statewide Health Planning and Development, for payment to Item 4140-001-001, payable from the Hospital Building Account, Architecture Public Building Fund 23,990,000

Provisions:

1. $3,195,000 of the funds appropriated in this item for workload associated with the anticipated hospital construction activity of Kaiser Permanente shall be available for expenditure only upon approval by the Department of Finance that these expenditures are justified on the basis of workload.

4140-001-143—For support of Office of Statewide Health Planning and Development, for payment to Item 4140-001-001, payable from the California Health Data and Planning Fund 7,598,000

4140-001-181—For support of Office of Statewide Health Planning and Development, for payment to Item 4140-001-001, payable from the Registered Nurse Education Fund 614,000

4140-001-232—For support of Office of Statewide Health Planning and Development, for payment to Item 4140-001-001, payable from the Hospital Services Account, Cigarette and Tobacco Products Surtax Fund 450,000

Item		Amount
4140-101-001—For local assistance, Office of Statewide Health Planning and Development, for Health Professions Development (Family Physician Training)		2,880,000

Provisions:

1. Notwithstanding the provisions of Section 2.00 of this act, or any other provision of law, the funds appropriated in this item for contracts with accredited medical schools, programs which train primary care physicians' assistants, as well as contracts with hospitals or other health care delivery systems located in California, which meet the standards of the Health Manpower Policy Commission established pursuant to Chapter 1 (commencing with Section 69270) of Part 42 of Division 5 of Title 3 of the Education Code, shall continue to be available for fiscal years 1991–92, 1992–93 and 1993–94. The amount appropriated by this item shall only be used for such contracts which commence on or after July 1, 1991.

4140-111-001—For local assistance, Office of Statewide Health Planning and Development Program 30, Health Professions Development (Family Physician Training)		2,100,000
Schedule:		
(a) 30.10-Family Physician Residency Programs	1,120,000	
(b) 30.20-Family Physician Assistant and Family Nurse Practitioner Training	288,000	
(c) 30.30-Special training programs	192,000	
(d) Family Physician Preceptorship and Recruitment Program	500,000	

Provisions:

1. Notwithstanding the provisions of Section 2.00 of this act, or any other provision of law, the funds appropriated in this item for contracts with accredited medical schools, programs which train primary care physicians' assistants, as well as contracts with hospitals or other health care delivery systems located in California which meet the standards of the Health Manpower Policy Commission established pursuant to Chapter 1 (commencing with Section 69270) of Part 42 of the Education Code, shall continue to be available for fiscal years 1991–92,

Item Amount

1992–93, and 1993–94. The amount appropriated by this item shall only be used for those contracts which commence on or after July 1, 1991.

2. The special program funds in schedule (c) shall be used according to existing Health Manpower Commission guidelines to provide special training in screening and treatment of measles, care for patients with AIDS, and care for drug-dependent or HIV-positive babies.

3. The Family Physician Preceptorship and Recruitment Program funds in schedule (d) shall be used for medical school outreach and preceptorship programs in order to improve recruitment into family practice residency programs.

4140-490—Reappropriation, Office of Statewide Health Planning and Development. Notwithstanding any other provision of law, the balance of the appropriation made by Item 4140-001-181 of the Budget Act of 1989 is reappropriated for the purposes of providing nursing scholarships and educational loan repayment assistance to underrepresented minorities and others who agree, in exchange for the educational assistance they receive, to a period of obligated professional service in areas of California designated by the state Health Manpower Policy Commission as deficient in primary care health services.

4140-495—Reversion, Office of Statewide Health Planning and Development. As of June 30, 1990, $420,000 of the appropriation provided in the following citation shall revert to the balance of the fund from which the appropriation was made:

121—Hospital Building Account, Architecture Public Building Fund:

(1) Item 4140-001-121, Budget Act of 1989.

4170-001-001—For support of Department of Aging		5,051,000
Schedule:		
(a) 10-Nutrition	2,872,000	
(b) 20-Senior Community Employment Service.....	338,000	
(c) 30-Supportive Services and Centers.....	2,105,000	
(d) 40-Special Projects.....	4,799,000	
(e) 50.01-Administration	5,380,000	
(f) 50.02-Distributed Administration..	−5,459,000	
(g) Reimbursements.....	−1,869,000	

Item		Amount
(h) Amount payable from the Federal Trust Fund (Item 4170-001-890) ..	−3,115,000	

Provisions:

1. The Director of the Department of Finance may authorize the transfer of funds between this item and Item 4170-101-001 no sooner than 30 days after written notification, to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee may determine, of: (1) the amount of the proposed transfer; (2) an identification of the purposes for which the funds will be used; (3) documentation that the proposed activities must be carried out in the current year and that no other funds are available for their support; and (4) the impact of any transfer on the level of services.

4170-001-890—For support of Department of Aging, for payment to Item 4170-001-001, payable from the Federal Trust Fund 3,115,000

Provisions:

1. The Director of the Department of Finance may authorize the transfer of funds between this item and Item 4170-101-890 no sooner than 30 days after written notification to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee may determine, of: (1) the amount of the proposed transfer; (2) an identification of the purposes for which the funds will be used; (3) documentation that the proposed activities must be carried out in the current year and that no other funds are available for their support; and (4) the impact of any transfer on the level of services.

4170-101-001—For local assistance, Department of Aging 34,139,000

Schedule:

(a) 10-Nutrition		60,287,000
(1) 10.10-Congregate nutrition	39,775,000	
(2) 10.20-Home delivered nutrition	20,512,000	

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(b) 20-Senior Community Employment Service	5,463,000	
(c) 30-Supportive Services and Centers (for match)	29,118,400	
(d) 40-Special Projects	31,728,600	
(e) Reimbursements	−12,567,000	
(f) Amount payable from the Federal Trust Fund (Item 4170-101-890)	−79,891,000	

Provisions:

1. Provision 1 of Item 4170-001-001 is also applicable to this item.
2. Of the amount appropriated in this item, $35,600 shall be used to fund the Outreach Independence Social Day Care Program.
3. Notwithstanding any other provision of law, any balance in the California Fund for Senior Citizens, as defined in subparagraph (C) of paragraph (2) of subdivision (a) of Section 18512 of the Revenue and Taxation Code, is hereby appropriated to schedule (c) of this item and shall be allocated to the Area Agencies on Aging according to the Intrastate Funding Formula, as specified in subdivision (a) of Section 9315 of the Welfare and Institutions Code.
4. It is the intent of the Legislature that funds for additional Alzheimer's Day Care Resource Centers shall be targeted, to the extent possible, at geographic areas with a demonstrated high incidence of Alzheimer's disease. In addition, the department shall give priority to applications from communities that are currently underserved in terms of department administered long-term care program.

4170-101-890—For local assistance, Department of Aging, for payment to Item 4170-101-001, payable from the Federal Trust Fund 79,891,000

Provisions:

1. Provision 1 of Item 4170-001-890 is also applicable to this item.
2. Notwithstanding the provisions of Section 28.00(c) of this act, the Department of Finance upon notification by the Department of Aging may authorize augmentations in this item in excess of $100,000 for budget revisions submitted by Area Agencies on Aging and approved by the Department of Aging for estimated entitlements of per-meal reimbursements from the

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U.S. Department of Agriculture and for funds allocated to Area Agencies on Aging for federal Title III one-time-only allocations in accordance with subdivision (c) of Section 9315 of the Welfare and Institutions Code.		
4170-111-939—For local assistance, Department of Aging, payable from the Nutrition Reserve Fund		704,000
Provisions:		
1. Notwithstanding any other provision of law, of the amount appropriated in this item, $554,000 shall be for the purpose of backfilling the anticipated federal reduction in the Congregate Nutrition program. This amount shall not be made available to the Department of Aging for allocation to the Area Agencies on Aging until the Director of Finance has determined the level of the federal reduction and authorizes the allocation of $554,000 or the amount of the federal reduction, whichever is less. If the federal reduction does not occur or is of a lessor amount, the Director of Finance shall allocate and revert the amount not necessary for the backfill back to the Nutrition Reserve Fund.		
2. Notwithstanding any other provision of law, of the amount appropriated in this item, $150,000 shall be used to fulfill kosher food preparation needs of Jewish Family Services.		
4180-001-001—For support of Commission on Aging....		256,000
Schedule:		
(a) 10-Commission on Aging	494,000	
(b) Amount payable from the Federal Trust Fund (Item 4180-001-890)..	−238,000	
4180-001-890—For support of Commission on Aging, for payment to Item 4180-001-001, payable from the Federal Trust Fund		238,000
Provisions:		
1. The amount appropriated in this item shall not be reduced as a result of the reduction of funds for support of the Department of Aging, Item 4170-001-890.		
4200-001-001—For support of Department of Alcohol and Drug Programs		5,555,000
Schedule:		
(a) 10-Alcohol Program	13,108,000	
(b) 20-Drug Program.....	14,808,000	
(c) 25-Pilot Project Combined Services Program	1,014,000	

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(d) 30.01-State administration	7,536,000	
(e) 30.02-State administration—distributed	−6,944,000	
(f) Reimbursements	−739,000	
(g) Amount payable from the Federal Trust Fund (Item 4200-001-890)	−21,463,000	
(h) Amount payable from Drinking Driver Program Licensing Trust Fund (Item 4200-001-139)	−1,112,000	
(i) Amount payable from Methadone Program Licensing Trust Fund (Item 4200-001-243)	−553,000	
(j) Amount payable from Audit Repayment Trust Fund (Item 4200-001-816)	−100,000	

Provisions:

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4200-101-001.

4200-001-139—For support of the Department of Alcohol and Drug Programs, for payment to Item 4200-001-001, payable from the Drinking Driver Program Licensing Trust Fund 1,112,000

4200-001-243—For support of the Department of Alcohol and Drug Programs, for payment to Item 4200-001-001, payable from the Methadone Program Licensing Trust Fund 553,000

4200-001-816—For support of the Department of Alcohol and Drug Programs, for payment to Item 4200-001-001, payable from the Audit Repayment Trust Fund 100,000

4200-001-890—For support of Department of Alcohol and Drug Programs, for payment to Item 4200-001-001, payable from the Federal Trust Fund 21,463,000

Provisions:

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this appropriation and Item 4200-101-890.
2. It is the intent of the Legislature to enhance the opportunity for inmates and parolees with alcohol or other drug problems to successfully reenter society and to increase the number of programs consistent with those proposed at the San Diego and San Quentin facilities. Of the amount appropriated by this item, $1,000,000 shall be ex-

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	pended for two additional projects targeted to provide treatment services to inmates and parolees. One project shall be located in a state correctional facility and the Department of Corrections, in consultation with the Department of Alcohol and Drug Programs, shall provide treatment services to inmates. For the other pilot project, the Department of Alcohol and Drug Programs shall allocate funds to two counties to provide treatment recovery services to inmates on work furlough and parolees immediately upon their release. The term of the pilot projects shall be two years. The Department of Alcohol and Drug Programs shall also contract for an evaluation to determine program outcomes and the effectiveness of the pilot projects.	
4200-101-001—For local assistance, Department of Alcohol and Drug Programs		74,435,000
Schedule:		
(a) 10-Alcohol Program	84,796,111	
(b) 20-Drug Program	134,572,104	
(c) 25-Pilot Project Combined Services Program	20,633,680	
(d) Reimbursements	−9,833,000	
(e) Amount payable from the Federal Trust Fund (Item 4200-101-890)	−155,733,895	
Provisions:		
1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4200-001-001.		
2. The Director of the Department of Finance may authorize the transfer of the local assistance state general fund appropriation between the alcohol program and the drug program for the purpose of meeting the intent of Sections 11814(b) and 11983.5(b) of the Health and Safety Code.		
3. The Department of Alcohol and Drug Programs shall withhold and reallocate funds if a county does not submit its alcohol and drug plan pursuant to Sections 11815 and 11983.1 of the Health and Safety Code, and its county alcohol and drug cost reports pursuant to Sections 11818.5(a) and 11991.5(e) of the Health and Safety Code. The amount withheld shall be 1/365 of the final county allocation of state and		

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federal funds for each day the plan or cost report is delinquent beyond November 15, 1990. Any funds withheld shall be reallocated to counties for the purpose of funding unmet needs.

4. The Department of Alcohol and Drug Programs is authorized to expend federal Alcohol and Drug Abuse and Mental Health Services block grant funds, pursuant to a waiver granted the state, for the construction of a new facility or rehabilitation of an existing facility, pursuant to Public Law 100-690, Section 2024, 42 U.S.C., Section 300X-3 (b).
5. Upon approval of the Director of the Department of Finance, the Department may transfer such funds as are necessary between Program 25, Pilot Project Combined Services, and Program 10, Alcohol Program, and Program 20, Drug Program.
6. The Requests for Proposals (RFPs) for expansion of the Perinatal Substance Abuse Pilot Project sites shall specify the requirements for the delivery of comprehensive case management services. In addition to meeting these case management requirements, agencies applying for case management funds shall demonstrate their ability to develop linkages with perinatal and pediatric health care providers. Agencies eligible to provide the comprehensive case management services as defined shall not be limited to a particular program model. The Department of Health Services shall include in the RFPs a list of current maternal and child health providers in each county whose expertise may be utilized in the planning, development, and implementation of the service system for pregnant and parenting women.

4200-101-890—For local assistance, Department of Alcohol and Drug Programs, for payment to Item 4200-101-001, payable from the Federal Trust Fund..... 155,733,895

Provisions:

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this appropriation and Item 4200-001-890.
2. The Director of the Department of Finance may authorize the transfer of the Local Assis-

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tance Federal Block Grant Fund appropriation between the alcohol program and the drug program for the purpose of meeting the intent of Sections 11814(b) and 11983.5(b) of the Health and Safety Code.

3. The Department of Alcohol and Drug Programs shall withhold and reallocate funds if a county does not submit its county alcohol and drug plan pursuant to Sections 11815 and 11983.1 of the Health and Safety Code, and its county alcohol and drug cost reports pursuant to Sections 11818.5(a) and 11991.5(e) of the Health and Safety Code. The amount withheld shall be 1/365 of the final county allocation of state and federal funds for each day the plan or cost report is delinquent beyond November 15, 1990. Any funds withheld shall be reallocated to counties for the purpose of funding unmet needs.
4. Upon approval of the Director of the Department of Finance, the Department may transfer such funds as are necessary between Program 25, Pilot Project Combined Services, and Program 10, Alcohol Program, and Program 20, Drug Program.
5. The Department of Alcohol and Drug Programs shall require county offices of alcohol and drug programs to give funding priority, within the funds spent on youth prevention programs, to establishing, expanding, or improving programs that target high-risk youth.
6. Of the $11,081,000 appropriated by this item for the anticipated increase in the federal fiscal year 1991 Alcohol, Drug Abuse, and Mental Health Services Award, $2,521,000 shall be used to provide treatment on demand by reducing waiting lists for services in drug programs, and $1,108,000 shall be used for alcohol and drug prevention services targeted to high-risk youth.
7. It is the intent of the Legislature to provide continuity in the provision of services to clients and funding for the waiting list reduction grant programs initiated in fiscal year 1989–90. The counties may request to the department that alternative waiting list programs be substituted if the programs are not performing in accordance with their contracts; if the county can demonstrate that service effectiveness will be en-

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hanced by using other drug treatment programs; or if there is no longer a need for the expanded waiting list program. The cost of continuation of these programs shall be funded from one-half of the increased drug program allocation received for fiscal year 1990–91. If one-half of the increased allocation is not sufficient to fully fund the continuation of the programs, the department shall allocate additional moneys to fund the difference.		
4220-001-001—For support of Child Development Programs Advisory Committee appointed pursuant to Section 8254 of the Education Code		259,000
4260-001-001—For support of Department of Health Services		141,585,000
Schedule:		
(a) 100000-Personal Services	182,458,000	
(b) 300000-Operating Expenses and Equipment	109,213,000	
(c) Reimbursements	−9,398,000	
(d) Reimbursements (Toxics)	−3,803,000	
(e) Amount payable from the Hazardous Waste Control Account, General Fund (Item 4260-001-014)	−2,633,000	
(f) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 4260-001-044)	−44,000	
(g) Amount payable from the Water Device Certification Special Account (Item 4260-001-129)	−118,000	
(h) Amount payable from the AIDS Vaccine Research and Development Grant Fund (Item 4260-001-135)	−207,000	
(i) Amount payable from the Vital Records Improvement Project Fund (Item 4260-001-137)	−4,958,000	
(j) Amount payable from the Food Safety Fund (Item 4260-001-177)	−3,015,000	
(k) Amount payable from the Environmental Laboratory Improvement Fund (Item 4260-001-179)	−637,000	
(*l*) Amount payable from the Genetic Disease Testing Fund (Item 4260-001-203)	−6,232,000	

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(m) Amount payable from the Low Level Radioactive Waste Disposal Fund (Item 4260-001-227)..	−1,088,000
(n) Amount payable from Health Education Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-231)	−3,891,000
(o) Amount payable from Hospital Services Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-232)	−1,585,000
(p) Amount payable from Physician Services Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-233)	−670,000
(q) Amount payable from the Research Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-234)	−1,318,000
(r) Amount payable from Unallocated Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-236).....	−1,768,000
(s) Amount payable from the Registered Environmental Health Specialist Fund (Item 4260-001-335) ..	−137,000
(t) Amount payable from the Hazardous Substance Account, General Fund (Item 4260-001-455)	−1,897,000
(u) Amount payable from the Mosquitoborne Disease Surveillance Account (Item 4260-001-478)	−26,000
(v) Amount payable from the Disproportionate Share and Emergency Services Fund (Item 4260-001-693)	−98,000
(w) Amount payable from the Alzheimer and Related Disorders Research Fund (Item 4260-001-823)	−837,000
(x) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−4,822,000
(y) Amount payable from the Federal Trust Fund (Item 4260-001-890)..	−100,754,000

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(z) Amount payable from the Local Health Capital Expenditure Account (Item 4260-001-900) ..... —150,000

Provisions:

1. Funds for state services, administration, research and training projects as identified as Special Projects of the 1990–91 Governor's Budget, are hereby approved for expenditure. The Department of Health Services shall process a budget revision for each project through the Department of Finance prior to any expenditure of funds and shall provide notification pursuant to Section 28 of this act for any new project or any increase in excess of $200,000 of an identified project.
2. Except as otherwise prohibited by law, the department shall promulgate emergency regulations to adjust the public health fees set by regulation to an amount, such that if the new fees were effective throughout the 1990–91 fiscal year, the estimated revenues would be sufficient to offset at least 95% of the approved program level intended to be supported by such fees. This provision shall not apply to the fees for shellfish certificates. For radioactive materials licenses, the approved program level shall be calculated based on the total approved program level less the portion of the total approved program level attributable to fee-exempt facilities.
3. Effective July 1, 1990, the annual fee for a general acute care hospital, acute psychiatric hospital, special hospital, general acute care rehabilitation hospital and chemical dependency recovery hospital shall be $32.29 per bed. Effective July 1, 1990, the annual fee for a skilled nursing facility, intermediate care facility, or intermediate care facility for the developmentally disabled is $144.75 per bed.

   Department of Health Services fees subject to the annual fee adjustment pursuant to subdivision (a) of Section 115 of the Health and Safety Code, added by Chapter 327 of the Statutes of 1982, shall be increased by 15.7 percent effective July 1, 1990.

   Departmental fees subject to the annual fee adjustment pursuant to subdivision (a) of Section 116 of the Health and Safety Code, as added

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by Chapter 327 of the Statutes of 1982, shall be increased by 31.8 percent effective July 1, 1990.

Departmental fees subject to the annual fee increase provisions of subdivision (a) of Section 113 and subdivision (a) of Section 114 of the Health and Safety Code shall be increased 0.4 percent plus 0.6 percent for each 1 percent increase in employee compensation granted in the 1990 Budget Act.

4. The Department of Health Services shall establish fees for the Neural Tube Defects program and the Newborn Screening program that are sufficient to cover the variable costs that may reasonably be attributed to providing services.
5. Notwithstanding any other provision of law, if federal administrative funds budgeted in Item 4260-001-890 are inadequate to fund costs incurred in the administration of the Refugee Medical Assistance Program provided to time eligible refugees, the department shall provide necessary funds to ensure adequate program administration.
7. $408,000 of the funds appropriated in this item and $1,175,000 of the funds appropriated in Item 4260-001-890 for 40 positions may not be spent unless legislation is enacted that (1) establishes a Medi-Cal drug discount program and (2) expands the authority of the department to delete drugs from the Medi-Cal drug formulary without going through the normal regulatory process.
8. The department shall not spend $748,000 of the funds appropriated for the Administration Division in category (d), prior to the approval by the Department of Finance of an expenditure plan.
10. $1,000,000 from the Health Education Account, Cigarette and Tobacco Products Surtax Fund, shall be used for contracts to expand the baseline survey to better identify tobacco use among target populations identified in Section 24161.5 of the Health and Safety Code. The department shall not encumber any of these funds until at least 30 days after the Department of Finance has submitted to the chairpersons of the Joint Legislative Budget Committee and the fiscal committees of both houses a detailed spending plan that describes (1) the

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studies that will be performed, (2) the need for the studies, (3) the amounts proposed for each study, and (4) the basis for the amounts proposed for each study.

11. Of the amount appropriated in this item, $300,000 shall be used to expand the Childhood Lead Poisoning Program focusing on high-risk children.
12. Of the amount appropriated in this item, $428,000 shall be used for testing the proficiency of cytology laboratories and the competency of cytotechnologists. If legislation is enacted during 1990 that delays the startup date of the proficiency testing program from January 1, 1991, to January 1, 1992, or later, $350,000 shall be available for expenditure for the proficiency and competency testing programs, and the remaining $78,000 shall revert to the General Fund. In addition, during the 1990–91 fiscal year, the department shall assess and collect sufficient fees to pay for the full costs in the 1990–91 fiscal year of developing and implementing the programs.
13. In order to expedite attainment of the goals established by Chapter 1177 of the Statutes of 1983, the department shall, as necessary, execute appropriate written agreements or memoranda of understanding with the low-level radioactive waste license designee.
14. The department shall provide the fiscal committees and the Joint Legislative Budget Committee copies of the quarterly progress reports on the Vital Records Improvement Project prepared for the Office of Information Technology. The department shall undertake activities to improve the state vital records system outside the scope of the pilot project only after approval of a feasibility study report by the Department of Finance. At least 30 days prior to the expenditure of funds for conversion of old records or other activities not within the scope of the pilot project, the department shall submit to the fiscal committees and the Joint Legislative Budget Committee all of the following information: (1) an approved feasibility study report, including information on the timing, costs, and scope of the proposed activities; (2)

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the request for proposals; and (3) detailed information on how the proposed activities interact with the pilot project.

15. In conducting its audit reviews of clinic SLIAG claims and reimbursements, the department shall determine how total documented costs for visits by eligible persons compare with the amounts paid by the department. The department shall audit clinics in order of the size of their SLIAG claims and reimbursements, beginning with clinics with the largest claim amounts.
16. The Legislature has reduced this item by $200,000 to demonstrate the Legislature's concern regarding the department's move of the Central Tumor Registry from Berkeley to Sacramento. The department shall reduce fiscal year 1990–91 expenditures in the General Administration and executive divisions by $200,000 to reflect the reduced appropriation in this item.
17. Of the amount appropriated in this item, $570,000 shall be used to support an advisory committee to evaluate the health effects of malathion and to contract for epidemiological studies of the health effects of malathion. The department shall do all of the following:
    (a) Contract with organizations outside of state government for any studies to be conducted on the health effects of malathion.
    (b) Request representatives from the following organizations to become members of the advisory committee on the health effects of malathion: Physicians for Social Responsibility, the Natural Resources Defense Council, the Pesticide Watch, and the Competitive Enterprise Institute.
    (c) Submit to the advisory committee for review all studies on the health effects of malathion for which the department has contracted with organizations outside of state government. The advisory committee shall submit to the department, and provide copies to the chairpersons of the fiscal committees of the Legislature, reports representing the majority and minority findings of the advisory committee regarding

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the health effects of malathion based on the studies for which the department has contracted. The advisory committee shall include in the reports a discussion of the relative risks associated with the application of malathion as a method of eradicating or controlling the Mediterranean fruit fly.

18. The department shall ensure that initial assessments are completed by December 15, 1990, regarding whether there are potential environmental and health risks due to contamination of the Foster-Gardner pesticide facility in the City of Coachella. The department shall review these assessment and shall, if warranted, initiate within 30 days of the completion of the initial assessments (a) a study of environmental contamination in the City of Coachella, and (b) an epidemiological study of pesticide-related illnesses in the City of Coachella.
19. The department shall develop a licensing category by January 1, 1991, for facilities that provide day and short-term respite care for children with special health care needs, including those who are terminally ill, chronically ill, medically fragile, and technology-dependent.
20. It is the intent of the Legislature that the department fully fund the California Birth Defects Monitoring Program in Ventura and Riverside Counties by utilizing funds appropriated in this item. In addition, it is the Legislature's intent that the department expand the California Birth Defects Monitoring Program into Los Angeles County in the 1990–91 fiscal year.
21. Of the amount appropriated in this item and payable from Item 4260-001-234, $800,000 shall be for the following purposes:
    (a) $400,000 to the central California Tumor Registry (Cancer Surveillance Section in Preventive Medical Services Division) for the following purposes:
        (1) $200,000 to continue environmental and occupational risk factor monitoring through the Computer Assisted Telephone Interview system as described in the Cancer Registry Data Analysis Plan submitted to the Legislature in April 1990.

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(2) $200,000 to be distributed to the regional registries to analyze data and conduct studies related to environmental and occupational causes of cancer, in order to identify local and regional cancer incidence patterns, suspected cancer clusters, or unusual occurrences of cancer. These analyses and studies shall utilize data collected by the California Tumor Registry and regional registries, and any other relevant data.

(b) $400,000 to Environmental Health Hazard Assessment to be distributed as follows:

(1) $250,000 to the Environmental Epidemiology and Toxicology Branch (EETB) to (A) investigate cancer clusters and possible associations with environmental exposures and to conduct special epidemiological studies to investigate environmental causes of cancer, and (B) conduct a comprehensive multicommunity epidemiological study of childhood cancer in the San Joaquin Valley. For these purposes, the EETB shall utilize data collected by the California Tumor Registry (from the central or regional registries) and shall be given access to this data.

(2) $150,000 to the California Occupational Health Program (COHP) to utilize California Tumor Registry data (from the central or regional registries) to identify occupations, industries, and worksites at high risk for cancer associated with occupational exposures, to implement programs to reduce the occurrence of occupational cancer risk factors, and to ensure appropriate worker and worksite followup. For this purpose, the COHP shall be given access to cancer registry data collected pursuant to the California Tumor Registry. The Department shall submit a report to the Legislature by April 1, 1991, detailing

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the specific projects funded by the amounts allocated in this provision.	
23. It is the intent of the Legislature that the Office of the State Registrar be fully supported by fees.	
4260-001-014—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Hazardous Waste Control Account, General Fund	2,633,000
Provisions:	
1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services payable from the Hazardous Waste Control Account, General Fund.	
2. Upon the request of the Department and the approval of the Director of the Department of Finance, the Controller shall transfer between Item 4260-001-014 and Item 4260-011-014 those funds necessary to ensure that sufficient funds are available for the programs approved by this act.	
4260-001-044—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Motor Vehicle Account, State Transportation Fund	44,000
4260-001-129—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Water Device Certification Special Account, General Fund	118,000
4260-001-135—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the AIDS Vaccine Research and Development Grant Fund	207,000
4260-001-137—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Vital Records Improvement Project Fund	4,958,000
4260-001-177—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Food Safety Fund	3,015,000
4260-001-179—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Environmental Laboratory Improvement Fund	637,000

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4260-001-203—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Genetic Disease Testing Fund	6,232,000
Provisions:	
1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services, payable from the Genetic Disease Testing Fund.	
4260-001-227—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Low Level Radioactive Waste Disposal Fund.....	1,088,000
Provisions:	
1. The State Controller may transfer funds between the Low Level Radioactive Waste Disposal Fund and that portion of the Federal Trust Fund which was utilized to receive rebate funds for this program from the 1987–88 Fiscal Year through the 1990–91 fiscal year, inclusive of the receipt of moneys from the U.S. Department of Energy.	
4260-001-231—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund.....	3,891,000
4260-001-232—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Hospital Services Account, Cigarette and Tobacco Products Surtax Fund.....	1,585,000
4260-001-233—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Physician Services Account, Cigarette and Tobacco Products Surtax Fund.....	670,000
4260-001-234—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Research Account, Cigarette and Tobacco Products Surtax Fund	1,318,000
4260-001-236—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund	1,768,000
4260-001-335—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Registered Environmental Health Specialist Fund	137,000

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Provisions:

1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services, payable from the Registered Environmental Health Specialist Fund.

4260-001-455—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Hazardous Substance Account, General Fund 1,897,000

Provisions:

1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services payable from the Hazardous Substance Account, General Fund.
2. Upon the request of the department and the approval of the Director of the Department of Finance, the Controller shall transfer between Item 4260-001-455 and Item 4260-011-455 those funds necessary to ensure that sufficient funds are available for the programs approved by this act.

4260-001-478—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Mosquitoborne Disease Surveillance Account 26,000

4260-001-693—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Disproportionate Share and Emergency Services Fund 98,000

Provisions:

1. To the extent that moneys available in the Disproportionate Share and Emergency Services Fund are less than the amount appropriated in this item, this appropriation shall be limited to that lesser amount.
2. Notwithstanding any other provision of law, if revenues to the Disproportionate Share and Emergency Services Fund are sufficient to create additional allocation workload pursuant to Chapter 996, Statutes of 1989, the Director of Finance may authorize expenditures for the Department of Health Services in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal

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	committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
	3. Moneys appropriated by this item and augmentations authorized pursuant to Provision 2 may be transferred by executive order approved by the Director of Finance from the Department of Health Services to the California Medical Assistance Commission, Item 4270-001-001, if revenues to the Disproportionate Share and Emergency Services Fund are sufficient to create allocation workload for that Commission pursuant to Chapter 996, Statutes of 1989.	
4260-001-823—For support of the Department of Health Services, for transfer to Item 4260-001-001, payable from the California Alzheimer and Related Disorders Research Fund		837,000
	Provisions:	
	1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services, payable from the California Alzheimer and Related Disorders Research Fund.	
4260-001-890—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Federal Trust Fund		100,754,000
	Provisions:	
	1. Limitations and conditions applicable to Item 4260-001-001 are also applicable to this item if appropriate.	
	2. Upon the request of the department and the approval of the Director of the Department of Finance, the Controller shall transfer between Item 4260-001-890 and Item 4260-011-890 those funds necessary to ensure that sufficient funds are available for the programs approved by this act.	
4260-001-900—For support of Department of Health Services, in lieu of the amounts which would otherwise be appropriated in the Local Health Capital Expenditure Account of the County Health Services Fund pursuant to Chapter 1351, Statutes of 1980, for payment to Item 4260-001-001, payable from the Local Health Capital Expenditure Account		150,000

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Provisions:		
1. The limitations of Item 9840-001-988 shall not apply to any deficiency expenditure authorization for the Department of Health Services, payable from the Local Health Capital Expenditure Account.		
4260-002-001—For support of the Department of Health Services programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California		33,888,000
Schedule:		
(a) Personal Services	33,206,000	
(b) Operating Expenses and Equipment	40,516,000	
(c) Reimbursements	−1,964,000	
(d) Amount payable from the Hazardous Waste Control Account, General Fund (Item 4260-002-014)	−5,973,000	
(f) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 4260-002-044)	−295,000	
(g) Amount payable from the Food Safety Fund (Item 4260-002-177)	−129,000	
(h) Amount payable from the Environmental Laboratory Improvement Fund (Item 4260-002-179)	−1,183,000	
(i) Amount payable from the Genetic Disease Testing Fund (Item 4260-002-203)	−25,511,000	
(j) Amount payable from the Low-Level Radioactive Waste Disposal Fund (Item 4260-002-227)	−43,000	
(k) Amount payable from the Research Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-002-234)	−340,000	
(*l*) Amount payable from the Hazardous Substance Account, General Fund (Item 4260-002-455)	−3,728,000	
(m) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Section 23.50)	−57,000	
(n) Amount payable from the Federal Trust Fund (Item 4260-002-890)	−611,000	

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Provisions: 1. Any provision from Item 4260-001-001 relevant to this item shall also be applicable to this item. 2. It is the intent of the Legislature that fees will be generated by large public water systems, with at least 200 service connections, to provide $3.6 million in revenues for reimbursements to this item.	
4260-002-014—For support of Department of Health Services programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California, for payment to Item 4260-002-001, payable from the Hazardous Waste Control Account, General Fund.....	5,973,000
Provisions: 1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services payable from the Hazardous Waste Control Account, General Fund.	
4260-002-044—For support of Department of Health Services programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California, for payment to Item 4260-002-001, payable from the Motor Vehicle Account, State Transportation Fund.....	295,000
4260-002-177—For support of Department of Health Services programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California, for payment to Item 4260-002-001, payable from the Food Safety Fund.....	129,000
4260-002-179—For support of Department of Health Services programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California, for payment to Item 4260-002-001, payable from the Environmental Laboratory Improvement Fund.....	1,183,000
4260-002-203—For support of Department of Health Services programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California, for payment to Item 4260-002-001, payable from the Genetic Disease Testing Fund	25,511,000
Provisions: 1. The limitations of item 9840-001-494 shall not apply to any deficiency expenditure authorization	

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for the Department of Health Services, payable from the Genetic Disease Testing Fund.	
4260-002-227—For support of Department of Health Services programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California, for payment to Item 4260-002-001, payable from the Low Level Radioactive Waste Disposal Fund	340,000
Provisions:	
1. The Controller may transfer funds between the Low Level Radioactive Waste Disposal Fund and that portion of the Federal Trust Fund which was utilized to receive rebate funds for this program from the 1987–88 fiscal year through the 1990–91 fiscal year, inclusive of the receipt of moneys from the United States Department of Energy.	
4260-002-234—For support of Department of Health Services programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California, for payment to Item 4260-002-001, payable from the Research Account, Cigarette and Tobacco Products Surtax Fund	340,000
4260-002-455—For support of Department of Health Services programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California, for payment to Item 4260-002-001, payable from the Hazardous Substance Account, General Fund	3,728,000
Provisions:	
1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services payable from the Hazardous Substance Account, General Fund.	
4260-002-890—For support of Department of Health Services programs, other than administrative overhead and data processing, that are located within 40 miles of Berkeley, California, for payment to Item 4260-002-001, payable from the Federal Trust Fund	611,000
Provisions:	
1. Limitations and conditions applicable to Item 4260-001-001 are also applicable to this item if appropriate.	

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4260-005-890—For support of Department of Health Services, payable from the Federal Trust Fund....	317,976,000
Provisions:	
1. Funds appropriated in this item shall be transferred to the Public Health Federal Fund.	
2. Funds for state services, administration, research and training projects of the 1990–91 Governor's Budget, are hereby approved for expenditure. The Department of Health Services shall process a budget revision for each project through the Department of Finance prior to any expenditure of funds and shall provide notification pursuant to Section 28 of this act for any new project or any increase in excess of $200,000 of an identified project.	
3. Notwithstanding any other provision of law, in the event that the department receives any additional federal funds for grants to states to carry out AIDS-related activities, the department shall be authorized to allocate these funds in the 1990–91 fiscal year, after notifying the fiscal committees and the Joint Legislative Budget Committee pursuant to the provisions of Section 28.00. However, the department shall be authorized to allocate only one quarter of any discretionary funds in this manner. The department shall give first priority in allocating discretionary funds to early intervention services, including drug treatment subsidies, to the extent permitted by federal law.	
4260-007-890—For support of Department of Health Services, payable from the Federal Trust Fund....	18,520,000
Provision:	
1. Notwithstanding limitations and conditions of provisions of Section 28 of this act, adjustments may be made to align the Federal funds for legislative actions and other technical adjustments affecting the recipient department's appropriation authority.	
4260-011-001—For support of Department of Health Services (Toxic Substances Control Program), for transfer by the State Controller to the Hazardous Substance Account, General Fund.....	5,000,000
4260-011-014—For support of Department of Health Services (Toxic Substances Control Program)	38,952,000
Schedule:	
(a) 12.10-Site Mitigation..... 59,628,000	

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(b)	12.20-Permitting	14,496,000
(c)	12.30-Surveillance and Enforcement	18,655,000
(d)	12.40-Alternative Technology	11,549,000
(e)	12.50.001-Program Direction and Support	14,620,000
(f)	12.50.002-Distributed Program Direction and Support	−14,620,000
(g)	Reimbursements	−1,300,000
(h)	Amount payable from Hazardous Waste Management Plan (Item 4260-011-428)	−26,000
(i)	Amount payable from Hazardous Substance Account (Item 4260-011-455)	−27,518,000
(j)	Amount payable from Federal Trust Fund (Item 4260-011-890)	−5,722,000
(k)	Amount payable from Hazardous Substance Account (Item 4260-015-455)	−10,375,000
(*l*)	Amount payable from Federal Trust Fund (Item 4260-021-890)	−20,435,000

Provisions:

1. Notwithstanding subdivision (a) of Section 25353 of the Health and Safety Code, funds from the Hazardous Substance Account appropriated by this act may be used by the department to provide for state oversight of the abatement of hazardous waste sites located on property owned and operated by the federal government including federal military installations.
2. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services payable from the Hazardous Waste Control Account, General Fund.
3. The department shall not expend any of the funds appropriated in Item 4260-011-455 and payable to this item to take any action to approve self-directed cleanup and certification activities under the proposed Integratd Site Mitigation Process, including self-directed site stabilization, self-directed site remediation, and self-certification of cleanup by responsible parties, at any site where removal or remedial actions are taking place pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20

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of the Health and Safety Code, until those activities are consistent with that chapter and the department has first done all of the following:

(a) Developed site stabilization and site remediation guidance documents and cleanup standards.

(b) Obtained public input on these documents through two or more public workshops, with at least one workshop held in the southern part of the state and one workshop held in the northern part of the state. In scheduling workshops, written notification shall be provided to interested representatives of industry, environmental groups, local enforcement agencies, the public, and the members of the following legislative committees: the Senate Committee on Toxics and Public Safety Management, the Assembly Committee on Environmental Safety and Toxic Materials, the Senate Committee on Budget and Fiscal Review, and the Assembly Committee on Ways and Means.

(c) Adopted regulations establishing cleanup standards pursuant to the California Administrative Procedures Act. In addition, the department shall notify the public of the availability of these documents through (1) mailings to the same individuals and entities identified in subdivision (b), and (2) press releases to the written and electronic media.

Upon the satisfactory completion of the actions set forth in this provision, the department shall submit written notification to the Joint Legislative Budget Committee at least 30 days prior to the date on which it intends to expend funds appropriated in this item for the purpose of implementing self-directed cleanup and certification activities of the Integrated Site Mitigation Process.

4. It is the intent of the Legislature that the department bill and collect from responsible parties the full costs for which the parties are liable, including any amounts that are in excess of the fees paid by the parties pursuant to Sections 25347.6 and 25347.7 of the Health and Safety Code.

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5. The Legislature finds and declares that the Toxic Substances Control Program has overbudgeted the number of hours required for training its personnel. In order to increase the department's productivity and reduce the amount of time that department personnel spend in training, the program shall limit the average time spent in training in the 1990–91 fiscal year to the following: (a) clerical position: 39 hours per position; (b) administrative positions: 55 hours per position; and (c) professional positions: 62 hours per position.	
4260-011-428—For support of Department of Health Services (Toxic Substances Control Program), for payment to Item 4260-011-014, payable from the Hazardous Waste Management Planning Subaccount	26,000
Provisions:	
1. Notwithstanding any other provision of law, the amount appropriated by this item is available for administrative support.	
4260-011-455—For support of Department of Health Services (Toxic Substances Control Program), for payment to Item 4260-011-014, payable from the Hazardous Substance Account, General Fund	27,518,000
Provisions:	
1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services payable from the Hazardous Substance Account.	
2. Of the amount appropriated in this item, $1,000,000: (a) shall be for the purposes of Health and Safety Code Section 25354, emergency response activity, (b) shall be in lieu of any appropriation made pursuant to that section, and (c) shall be transferred by the State Controller into the reserve account of the Hazardous Substance Account, General Fund.	
4260-011-890—For support of Department of Health Services (Toxic Substances Control Program), for payment to Item 4260-011-014, payable from the Federal Trust Fund	5,722,000
4260-015-455—For support of Department of Health Services (Toxic Substances Control Program), for payment to Item 4260-011-014, payable from the Hazardous Substance Account, General Fund	10,375,000

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Provisions:		
1. The funds appropriated in this item are for the following:		
(a) 12.10.030—Direct Site Cleanup:		
(1) 12.10.030.005-Purity Oil		110,000
(2) 12.10.030.010-Myers Drum, Emeryville		587,000
(3) 12.10.030.015-Lubrication Company of America		787,000
(4) 12.10.030.020-Western States Refining		126,000
(5) 12.10.030.025-McColl		150,000
(6) 12.10.030.030-Enforcement/PRP Searches and Lab Sampling		750,000
(7) 12.10.030.035-Pinedale Area Groundwater, Phase I		465,000
(8) 12.10.030.040-Myers Drum, Oakland		587,000
(9) 12.10.030.045-Southland Oil		243,000
(10) 12.10.030.050-North San Bernardino, Phase I		383,000
(11) 12.10.030.055-Unforseen RAs/Site Stabilizations		794,000
(12) 12.10.030.060-Chico Area Groundwater, Phase I		587,000
(13) 12.10.030.065-Precision Media		365,000
(14) 12.10.030.070-Caltrans Project 3, Site 15		544,000

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(15) 12.10.030.075-North San Bernardino, Phase II	967,000	
(16) 12.10.030.080-Village Market, Phase I	265,000	
(17) 12.10.030.085-Factor Avenue Plume	165,000	
(19) 12.10.030.095-Rosamond, Phase I	265,000	
(23) 12.10.030.115-Pacific States Steel	365,000	
(24) 12.10.030.120-San Fernando GWB	315,000	
(25) 12.10.030.090-Dunes Subdivision	50,000	
(26) 12.10.030.110-Tri-Air	215,000	
(27) 12.10.030.115-Bay Area Drum	123,000	
(28) 12.10.030.120-Caltrans No. 16	167,000	
(29) 12.10.030.125-San Gabriel Groundwater Basin	1,000,000	
4260-021-014—For transfer by the State Controller to the Hazardous Substance Account, General Fund		(8,000,000)
4260-021-890—For support of Department of Health Services (Toxic Substances Control Program), for payment to Item 4260-011-014, payable from the Federal Trust Fund		20,435,000
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		3,816,042,900
Schedule:		
(a) 50.11-Benefits (Medical Care and Services)	7,719,219,800	
(b) 50.10-Eligibility (County Administration)	304,784,000	
(c) 50.50-Fiscal Intermediary Management	56,932,000	
(d) Reimbursements	−7,676,000	

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(e) Amount payable from the Federal Trust Fund (Item 4260-101-890) ..... —4,120,194,900

(f) Amount payable from Federal Trust Fund (Item 4260-103-890) .. —9,916,000

(g) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Section 23.50) ..... —127,106,000

Provisions:

1. After June 30, 1991, 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 pub-

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lic 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.

6. 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.
7. Of the funds appropriated by this item, up to $50,000 may be allocated for attorney's 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.
8. 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.
9. 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

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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.

10. 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. The semiannual estimates of Medi-Cal expenditures due to the Legislature in January and May may constitute the notification required by this provision.
11. Recoveries of advances made to counties in prior years pursuant to Section 14153 of the Welfare and Institutions Code are hereby reappropriated to the Health Care Deposit Fund for reimbursement of those counties where allowable costs exceeded the amounts advanced. Recoveries in excess of the amounts required to fully reimburse allowable costs shall be transferred to the General Fund. When a projected deficiency exists in the Medical Assistance Program, these funds, subject to notification to the Chairperson of the Joint Legislative Budget Committee, are hereby appropriated and shall be expended as soon as practicable for the state's share of payments for medical care and services, county administration, and fiscal intermediary services.
12. Amounts identified as abatements to the county medical services program for retroac-

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tive 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.

14. Notwithstanding any other provision of law, if federal administrative funds budgeted in Item 4260-103-890 are inadequate to fund the costs incurred in the administration of the Refugee Medical Assistance Program provided to time-eligible refugees, the department shall provide necessary funds to ensure adequate program administration.
15. Of the amount appropriated in this item, $1,000,000 shall be used to improve access to perinatal services.
16. Of the amount appropriated by this item, $2,800,000 shall be available to defray costs associated with innovative contracts to reduce the prices of supplies for the Medi-Cal Program.
17. The augmentation of $9,000,000 for outpatient rate increases shall be included in the base, and shall be distributed according to the following methodology: Using the most recent version of the Office of Statewide Health Planning and Development (OSHPD) Quarterly and Financial Utilization Report, an outpatient disproportionate factor shall be developed for each hospital based on the ratio of total Medi-Cal outpatient gross revenue plus "other" outpatient deductions from revenue to total outpatient gross revenue. This calculation shall not take into account Medicare and Medi-Cal contractuals or any offsetting subsidies such as medically indigent services program funds. Those hospitals exceeding the statewide mean shall receive supplemental payments based on their relative disproportionality.
18. Of the amount appropriated in this item, $200,000 shall be used to provide a 4 percent rate increase for home health care.
19. Of the amount appropriated in this item, $1,000,000 shall be used for ambulance transportation rate increases.

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4260-101-693—Notwithstanding any other provision of law, moneys available in the Disproportionate Share and Emergency Services Fund after appropriations made by Chapter 996, Statutes of 1989, and by Item 4260-001-693 of this Act, are hereby appropriated to the Department of Health Services for expenditure for local assistance for the purposes specified in Chapter 996, Statutes of 1989. Any funds encumbered pursuant to this item shall be reported by the Department of Health Services to the Director of Finance and the Legislative Analyst on a quarterly basis.

4260-101-890—For local assistance, Department of Health Services, for payment to Item 4260-101-001, payable from the Federal Trust Fund 4,120,194,900

Provisions:

1. Any provision from Item 4260-101-001 relevant to this item shall also be applicable to this item.

4260-103-890—For local assistance, for refugee services, Department of Health Services, for payment to Item 4260-101-001, payable from the Federal Trust Fund..... 9,916,000

4260-106-001—For local assistance, Department of Health Services, for cost-of-living increases to be transferred to, and in augmentation of, the respective appropriations by the Controller upon enactment in accordance with the following schedule, payable from the General Fund 42,300,000

Schedule:

(a) 50.11-Benefits (Medi-Cal Care and Services), for transfer to Item 4260-101-001..... 42,300,000

Provisions:

1. The department shall provide rate increases to long-term care facilities effective December 1, 1990.
2. Appropriation of these funds fully recognizes the costs that efficiently and economically operated facilities must incur to provide care and has been determined by an appropriate rate study that is in conformity with appropriate state and federal laws, regulations, and quality and safety standards.
3. Of the funds appropriated in this item, $3,800,000 shall be transferred to Item 4440-141-001 for purposes of funding a cost-of-living in-

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crease for institutions for mental diseases effective December 1, 1990.		
4260-106-890—For local assistance, Department of Health Services, for cost-of-living increases to be transferred to, and in augmentation of, the respective appropriations by the Controller upon enactment in accordance with the following schedule, payable from the Federal Trust Fund		38,500,000
Schedule:		
(a) 50.11-Benefits (Medical Care and Services) (for transfer to Item 4260-101-890)	38,500,000	
4260-111-001—For local assistance, Department of Health Services		1,014,475,000
Schedule:		
(a) 11-Preventive Medical Services	8,165,000	
(b) 15-AIDS	55,980,000	
(c) 20-Family Health Services	164,454,000	
(d) 40-Rural and Community Health	786,528,000	
(e) Reimbursements—Family Health Services; Perinatal Substance Abuse Program	−652,000	
Provisions:		
1. Program 15-AIDS:		
(a) The Office of AIDS, in allocating and processing contracts and grants, shall comply with the same requirements as are established for contracts and grants for other public health programs. Specifically: (1) the office shall develop request-for-proposals which include the standards pursuant to which the proposals will be evaluated; (2) the office shall use an evaluation and selection committee consisting of persons with expertise in reviewing proposals; (3) it may negotiate the terms and conditions of the contracts and grants; (4) it may reject any and all contracts or grants; and (5) it shall publish a timetable and develop appropriate outreach efforts to assure that the request for a proposal reaches appropriate recipients of funds. The contracts or grants administered by the Office of AIDS shall be exempt from the Public Contract Code and shall be exempt from approval by the Department of Finance and the State Depart-		

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	ment of General Services prior to their execution. (b) Of the amount appropriated in this item for the Office of AIDS Pilot Care Program, at least $100,000 shall be allocated as continuation funding for an adult day health care program serving people with AIDS and other functionally impaired adults, and $50,000 shall be allocated for an evaluation of innovative programs funded by the Budget Act of 1989. (c) Of the amount appropriated in this item for the Office of AIDS Alternative Test Site program, up to $825,000 shall be redirected to promote testing and early intervention services. (d) The Department of Health Services shall utilize $455,000 of these funds to implement provisions of Section 199.741 of the Health and Safety Code which permit the state to subsidize health insurance premiums for participants in the AIDS Home Health, Hospice, and Attendant Care Pilot Project to the extent that it is cost-effective to the General Fund or the Medi-Cal program. The Director of Health Services shall make a determination of cost effectiveness, which shall be reviewed by the Department of Finance. Of this amount, $360,000 shall be utilized for health insurance premium subsidies, $45,000 to augment case management services in the AIDS Home Health, Hospice, and Attendant Care Pilot Project for the purpose of implementing this program, and $50,000 to the Office of AIDS for the purpose of administering this program. (e) The remaining $2,500,000 shall be distributed to Pilot Care Program projects. (f) (1) Of the amount appropriated in this item, $1,400,000 shall be allocated for the AIDS Drug Subsidy and $400,000 shall be allocated to early intervention programs. The Office of AIDS shall include pilot projects designed to encourage private sector involvement and support for early intervention services in its Pilot Care program.	

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(2) In the event new funds are made available in federal legislation for care and treatment of persons with AIDS or HIV in California on or before November 1, 1990, the Director of Finance shall transfer $1,800,000 from this item to Item 6440-001-001 to be used for AIDS-related research activities.

(g) Of the amount appropriated in this item for the AIDS drug subsidy program, the Office of AIDS may allow each county to use up to 5 percent of its allocation for administrative support of its AIDS drug subsidy program.

(h) The Office of AIDS shall consider the Tagalog hotline for full funding with any funds that become available for education and prevention.

2. Program 20-Family Health Services:
The CCS Program shall require all CCS applicants who are potentially eligible for cash grant public assistance to apply for Medi-Cal eligibility prior to becoming eligible for CCS funded services, unless the individual declines to apply on the basis of known ineligibility under state law and the regulations promulgated thereunder.

3. Program 40-Rural and Community Health:

(a) The reimbursement rate for any procedure or service shall not be increased to exceed the Medicare rate for a comparable procedure or service, nor shall the reimbursement rate for any procedure or service which is currently above the Medicare rate be increased above its current level.

(b) Amounts identified as abatements to the county medical services program for claims for retroactive aid to the totally disabled shall be transferred from the Health Care Deposit Fund to the county medical services program without regard to fiscal year. Funds appropriated for medically indigent services in independent counties shall be spent to preserve or provide reasonable access to both inpatient hospital care and outpatient care.

(c) Notwithstanding any other provisions of law, any money recovered for previously paid health care services and interest

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earned by the CMSP fund, are hereby appropriated and shall be expended as soon as practicable for medical care and services as defined in the Welfare and Institutions Code.

(d) Of the funds appropriated in this item, the sum of twenty-six million five hundred ninety-seven thousand dollars ($26,597,000) shall be allocated to each county receiving funds pursuant to subdivision (d) of Section 16703 of the Welfare and Institutions Code. Each county's maximum allocation shall be determined as follows:

(1) The sum of one hundred twenty-six million five hundred ninety-seven thousand dollars ($126,597,000) shall be multiplied by each county's percentage determined by subdivision (d) of Section 16703 of the Welfare and Institutions Code.

(2) For each county, the percentage of persons newly legalized under the Immigration Reform and Control Act of 1986 (IRCA) who are residents of that county, divided by the total of all IRCA newly legalized persons for all counties eligible to receive funds pursuant to this section, shall be determined. The department shall utilize the most recent data from the United States Department of Health and Human Services for this purpose.

(3) Each county's percentage determined in paragraph (2) shall then be multiplied by one hundred twenty-six million five hundred ninety-seven thousand dollars ($126,597,000).

(4) For each county, the amount determined in paragraph (3) shall be subtracted from the amount determined in paragraph (1). If the resulting amount is negative, no funds shall be allocated to that county. If the resulting amount is positive, that amount shall be the county's maximum allocation, and shall be made available to that county in the same manner and ac-

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cording to the same procedures and requirements that govern funds made available pursuant to subdivision (d) of Section 16703 of the Welfare and Institutions Code.

(e) To the extent savings are available from the County Health Services Fund, the director shall allocate the funds according to the following priorities:

(1) Public Health Emergencies	315,000
(2) Distressed County Facilities, as defined in Section 16715 of the Welfare and Institutions Code	470,000
(3) Refugee Health Programs.	245,000
(4) Computerization of County Information	535,000
(5) County-Clinic Linkages	130,000
(6) Elder Care Projects	505,000
(7) Medication Education Program for Seniors	250,000

(f) If the funding applications of local jurisdictions request fewer funds from one category than the amounts set forth in subdivision (e), the director may reallocate funds from one category to another. However, in reallocating funds, the director shall first consider the need for additional funds in the categories in the order of priorities listed in subdivision (e). If there are insufficient savings to fully fund the categories, the director shall make proportionate reductions to each category. To the extent the Department of Finance determines that additional funds are needed in priority (1), Public Health Emergencies, and funding is available by reallocating funds from other categories, the Department of Finance may allocate funds as needed for Public Health Emergencies and shall notify the fiscal committees and the Joint Legislative Budget Committee using procedures established in subdivision (b) of Section 27.00 of this act.

(g) Of the amount appropriated in this item, $15,000 shall be used for migrant health laboratory services.

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(h) In order to calculate the allocation of the funds appropriated for MISP and CMSP, the sum of $150,000,000 shall be added to the total amount appropriated in this item for these programs. The ratio of each county's per capita share of $150,000,000 shall be calculated and the resulting amount shall be deducted from the amount the county would have received if the $150,000,000 had been included in the appropriation for these programs.		
4260-111-137—For local assistance, Department of Health Services, payable from the Vital Records Improvement Project Fund		540,000
4260-111-231—For local assistance, Department of Health Services, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund		6,805,000
Schedule:		
(a) 20-Family Health Services	6,805,000	
4260-111-890—For local assistance, Department of Health Services, payable from the Federal Trust Fund		33,802,000
Schedule:		
(a) 20-Family Health Services	33,217,000	
(b) 40-Rural and Community Health.	585,000	
Provisions:		
1. Provision 2(a) of Item 4260-111-001 is also applicable to this item.		
2. Program 20-Family Health Services:		
(a) In order to meet the requirements of the federal Omnibus Budget Reconciliation Act of 1989 regarding expenditure of federal Maternal and Child Health (MCH) funds, the Department of Finance may authorize the department to transfer funds among programs qualifying for MCH funds subject to notification of the Legislature pursuant to Section 28 of this act. If the department determines that these requirements necessitate a net augmentation to the California Children's Services (CCS) program, the additional MCH funds provided CCS shall be used for increased case management and care coordination activities.		
(b) Of the amount appropriated in this item, up to $400,000 shall be used for data collec-		

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tion and evaluation activities. These funds shall, at a minimum, be used to develop (1) outcome measures for analyzing the effectiveness of existing MCH programs as required by federal law, and (2) a state MCH plan. Any of the $400,000 not needed for this purpose shall be spent on other high priority projects. Upon approval of the Department of Finance, the department may transfer all or a portion of these funds to Item 4260-001-890 for staff and related support.

(c) Of the amount appropriated for category (a), Family Health Services, $8,000,000 is appropriated contingent upon the availability of sufficient federal MCH funds carried over from prior years. To the extent that these funds are available, the department shall spend them for one-time purposes in the following priority order:

(1) Up to $2,000,000 for the federal fiscal year 1990 funding shortfall in the Special Supplemental Food Program for Women, Infants, and Children. To the extent that any of those funds are available and not needed for this purpose, the department shall use those funds for the other MCH priorities in this provision.

(2) Up to $2,500,000 for outreach activities, which may include:

(A) Assisting pregnant women to seek early and frequent prenatal care.

(B) Assisting community-based perinatal services and comprehensive perinatal services providers in converting to, and expanding, prenatal care activities under the Medi-Cal program pursuant to Chapter 980 of the Statutes of 1988 and Chapter 1331 of the Statutes of 1989.

(3) Up to $1,500,000 for time-limited projects targeting high-risk areas to improve African American infant health outcomes.

(4) Up to $2,000,000 to provide funding for

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the vaccine to immunize all California children against measles, mumps, rubella (MMR), diptheria, pertussis, tetanus, and polio in a way that ensures, to the extent possible, their entry into a system of continuing primary and preventive health care. Before using any federal MCH funds for this purpose, the department shall first spend all available Special Needs and Priorities funds.

The Department of Finance may transfer funds scheduled in this provision to another project in this provision after notification of the Legislature pursuant to Section 28 of this act.

4260-112-036—For local assistance, Department of Health Services, payable from the Special Account for Capital Outlay 200,000

Schedule:

(1) 80.01.001-City of Long Beach-Long Beach Stroke Activity Center 200,000

Provisions:

1. The funds appropriated in this item shall be used for a stroke activity center for seniors in Long Beach and surrounding areas.

4260-121-001—For local assistance, Department of Health Services, Program 11.20, Chronic Diseases (Alzheimer's Program) 6,564,000

Provisions:

1. Of the amount appropriated in this item, $1,720,000 shall be used to develop a system of Alzheimer's Diagnostic and Treatment Centers in rural and urban areas that are not served by an existing diagnostic and treatment center associated with a university health science campus.
2. Of the amount appropriated in this item, $500,000 shall be used to provide startup funds for two new diagnostic and treatment centers; $330,000 shall be used to supplement the funding for the three new centers established in the 1988–89 budget to bring them up to $350,000 per center; $150,000 shall be available to transfer to Item 4260-001-001 for administrative costs incurred by the department to monitor and eval-

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uate the centers; and $300,000 shall be used to fund innovative projects on a competitive bid basis. All existing diagnostic and treatment centers shall be funded at a $350,000 level for the 1990–91 fiscal year. The department shall encourage all centers to maximize third-party reimbursements.

4260-301-036—For capital outlay, Department of Health Services, payable from the Special Account for Capital Outlay 263,000
Schedule:
(1) 94.50.010-Minor Capital Outlay 36,000
(2) 94.80.020-Los Angeles: Laboratory Renovation—Working drawings.. 227,000

4260-490—Reappropriation, Department of Health Services. Notwithstanding any other provision of law, the balance of the appropriations provided in the following citation is reappropriated for the purposes specified, and shall be available for encumbrance and expenditure until June 30, 1991:

001—General Fund

(1) Section 2(A), Chapter 1463, Statutes of 1986, as reappropriated by Item 4260-490(2), Budget Act of 1989, for state support of human clinical trials for AIDS vaccine research. Notwithstanding any other provision of law, a manufacturer with management or officers based in this state and operations for research and manufacture of an AIDS vaccine in this state shall be eligible for state support for human clinical trials for AIDS vaccine research, even though, pursuant to FDA procedural requirements, the FDA approval is granted to the federal agency. Funds appropriated in this item may only be allocated to the manufacturers specified in the protocol approved by the FDA. No funds appropriated pursuant to this item may be allocated unless and until the AIDS Vaccine Research and Development Advisory Committee votes to approve the allocation. No single allocation exceeding $1,000,000 shall be made from the funds appropriated in this item.

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4260-491—Reappropriation, Department of Health Services. Notwithstanding any other provision of law, the balance of the appropriation provided in the following citation is reappropriated for the purpose specified, and shall be available for encumbrance and expenditure until June 30, 1991:

001—General Fund

(1) Item 4260-101-001, Budget Act of 1989: Pursuant to Chapter 1446, Statutes of 1989, the balance remaining to fund eligibility workers at alternative sites to facilitate the receipt and processing of applications for Medi-Cal eligibility for Pregnant women.

(2) The balance of unencumbered funds, not to exceed $600,000, from subparagraph (C) of paragraph (3) of subdivision (a) of Section 10 of Chapter 1331 of the Statutes of 1989, as amended by Chapters 50 and 51 of the Statutes of 1990, for expansion of perinatal services.

(3) The balance of unencumbered funds, not to exceed $600,000, from subparagraph (D) of paragraph (4) of subdivision (a) of Section 10 of Chapter 1331 of the Statutes of 1989, as amended by Chapters 50 and 51 of the Statutes of 1990, for expansion of perinatal services.

4260-492—Reappropriation, Department of Health Services. Notwithstanding any other provision of law, the balance of the appropriations provided in Items 4260-011-710 and 4260-012-710 of the Budget Act of 1987, and the unencumbered balance of the appropriations provided in Items 4260-011-710 and 4260-012-710 of the Budget Act of 1988, are reappropriated for the purposes of, and in augmentation of, schedules (a) and (b) of Section 7 of Chapter 1439 of the Statutes of 1985, and shall be available for encumbrance and expenditure until June 30, 1991.

4260-495—Reversion, Department of Health Services. As of June 30, 1990, the unencumbered balances of the appropriations provided in the following citations shall revert to the fund balance of the funds from which the appropriations were made:

001—General Fund

(1) Item 4260-001-001(b), Budget Act of 1989, for support of the California Birth Defects Monitoring Program, provided that the reversion shall be limited to those funds appropriated for

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program expansion into Los Angeles County.		
(2) Section 10(a) (5) (E), Chapter 1331, Statutes of 1989.		
135—AIDS Vaccine Research and Development Grant Fund		
(1) Chapter 1316, Statutes of 1987, provided that these funds are available for AIDS support program costs in 1990–91.		
4260-496—Reversion, Department of Health Services. The following appropriation shall be reverted to the unappropriated surplus of the Special Account for Capital Outlay:		
Schedule:		
(1) Item 4260-301-036(2), Budget Act of 1988, 94.70.045-Berkeley: Additional Space and Renovation—Preliminary plans, as reappropriated by Item 4260-493, Budget Act of 1989, $623,000.		
4270-001-001—For support, California Medical Assistance Commission		996,000
Schedule:		
(a) 100000-Personal Services	1,503,000	
(b) 300000-Operating Expenses and Equipment	489,000	
(c) Reimbursements	−996,000	
4300-001-001—For support of Department of Developmental Services		18,202,885
Schedule:		
(a) 10-Community Services Program.	10,822,000	
(b) 20-Developmental Centers Program	10,512,885	
(c) 35.01-Administration	27,792,000	
(d) 35.02-Distributed Administration	−20,088,000	
(e) Reimbursements	−1,160,000	
(f) Amount payable from the Developmental Disabilities Program Development Fund (Item 4300-001-172)	−215,000	
(g) Amount payable from the Federal Trust Fund (Item 4300-001-890)	−9,461,000	
4300-001-172—For support of Department of Developmental Services, for payment to Item 4300-001-001, payable from the Developmental Disabilities Program Development Fund		215,000
4300-001-496—For support of Department of Developmental Services, payable from the Developmental Disabilities Service Account		80,000

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4300-001-890—For support of Department of Developmental Services, for payment to Item 4300-001-001, payable from the Federal Trust Fund			9,461,000
Provisions:			
1. Upon order of the Director of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4300-003-890.			
2. Any provision of Item 4300-001-001 relevant to this item shall be applicable to this item also.			
4300-002-001—For support of Department of Developmental Services, for the purpose of a report to the Legislature in accordance with provision 1 of this item			5,700,000
Schedule:			
(a) 10-Community Services Program.		2,850,000	
(b) 20-Developmental Centers Program		2,850,000	
Provisions:			
1. Upon order of the Director of Finance, the State Controller shall transfer the funds appropriated in this item to, and in augmentation of, Item 4300-001-001, no earlier than 30 days after: (a) written notification of approval of the State Plan and written assurances of eligibility for federal reimbursement for case management services under the Medicaid/Case Management Program (Title XIX) as allowed under the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, (b) notification of the intent of the Department of Finance to approve a request pursuant to Section 27.00 of this act is received by the Joint Legislative Budget Committee, or (c) notification by the Department of Finance that federal reimbursements for case management services are budgeted as revenue and not as reimbursements is received by the Joint Legislative Budget Committee.			
4300-003-001—For support of Department of Developmental Services, for Developmental Centers			19,186,911
Schedule:			
(a) 20-Developmental Centers Program		538,411,911	
(b) Reimbursements		−517,462,000	
(c) Amount payable from the Federal Trust Fund (Item 4300-003-890)		−856,000	

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(e) Amount payable from the Lottery Education Fund (Item 4300-003-814) ..... —907,000

Provisions:

1. Upon order of the Director of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Items 4300-101-001 and 4440-011-001.
2. The General Fund shall make a loan available to the Department of Developmental Services not to exceed a cumulative total of $130,000,000. The loan funds will be transferred to this item as needed to meet cash-flow needs due to delays in collecting reimbursements from the Health Care Deposit Fund, and subject to the repayment provisions of Section 16351 of the Government Code.
3. Of the amount appropriated in Schedule 20, $542,500 is provided for payment of energy service contracts as required in connection with issuance of Public Works Board Energy Efficiency Revenue Bonds (State Pool Program), Series 1986 A.
4. To the extent that the department is eligible to receive additional Title XIX Medi-Cal reimbursements as a result of population increases in the developmental centers, the department is authorized to expend those reimbursements for the care of the additional clients upon approval of the Director of Finance.
5. (a) The Director of Finance is authorized to approve the department's request for any emergency expenditure of additional Medi-Cal reimbursements in those amounts which are in excess of amounts appropriated in this act for the 1990–91 fiscal year subject to the following conditions: (1) the reimbursements occur as a result of population increases in the state developmental centers (SDCs) exceeding the amount budgeted, (2) the proposed expenditures are for the direct costs of caring for the additional clients.

   (b) Approval for any emergency expenditure shall be made in writing by the Director of Finance and filed with the Chairperson of the Joint Legislative Budget Committee

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and the chairperson of the committee in each house which considers appropriations not later than 10 days after the effective date of the approval. All notices shall state the reason for and amount of each request.

(c) As used in this provision, "emergency expenditure" means an expenditure incurred in response to conditions which threaten the health, safety, or direct care of clients in the SDCs.

(d) The department shall report quarterly to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house on the cumulative requests approved pursuant to subdivisions (a) and (b). The report shall contain information regarding the amount and circumstances related to any expenditures made pursuant to this provision. This report shall be filed within 15 days after the close of each fiscal quarter.

6. Of the amount appropriated by this item, $2,500,000 shall be used to fund health benefits for contracted janitorial staff in the State Developmental Centers.

4300-003-814—For support of Department of Developmental Services, for payment to Item 4300-003-001, payable from the Lottery Education Fund 907,000

Provisions:

1. All funds received pursuant to Proposition 37 that are allocable to the Department of Developmental Services pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item. These additional funds may be expended only upon written approval of the Director of Finance.

4300-003-890—For support of Department of Developmental Services, for payment to Item 4300-003-001, payable from the Federal Trust Fund 856,000

Provisions:

1. Upon order of the Director of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4300-001-890.

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4300-004-001—For support of Department of Developmental Services (Proposition 98), for Developmental Centers			15,859,000
Schedule:			
(a) 20-Developmental Centers Program		23,535,000	
(1) AB 1202 Contracts..	8,105,000		
(2) Medi-Cal Eligible Education Services	15,430,000		
(b) Reimbursements		−7,676,000	
Provisions:			
1. Of the amount appropriated by this item, $7,676,000 is to be used to contract with the Department of Health Services to provide the General Fund Match for Medi-Cal Eligible Education Services.			
4300-101-001—For local assistance, Department of Developmental Services, for Regional Centers			550,912,075
Schedule:			
10.10-Regional Centers			
(a) 10.10.010-Operations		156,682,075	
(b) 10.10.020-Purchase of services		424,850,000	
(c) 10.20.010-Program Development..		2,010,000	
(d) 10.20.030-Cultural Center for the Handicapped		146,000	
(e) Reimbursements		−29,801,000	
(f) Amount payable from Developmental Disabilities Program Development Fund (Item 4300-101-172)		−2,975,000	
Provisions:			
1. Upon order of the Director of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item, and Item 4300-003-001. Provided further, that the Director of Finance may authorize the transfer of funds from this item to the Health Care Deposit Fund for the state's share of expenditures for developmental services provided to persons eligible under the California Medical Assistance Program.			
2. (a) In order to ensure that services to eligible clients are available throughout the contract period, it is the intent of the Legislature in enacting this provision that each regional center administer the contract			

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within the level of funding available pursuant to Sections 4621 and 4633 of the Welfare and Institutions Code and this act. If additional funds are appropriated by the Legislature, the Department of Developmental Services shall revise the contract amounts. The regional centers shall then administer the contracts within the revised contract amounts.

To carry out the intent of this provision, each regional center contract shall include provisions which ensure the regional center will provide services to eligible clients within the funds available in the contract throughout the contract term. If the regional center or the Director of Developmental Services determines that there are insufficient funds in a regional center contract for the provision of client services, the regional center shall continue to administer the contract within the funds provided and report to the Director of the Department of Developmental Services on the type, amount, and costs of client services which cannot be provided directly or through purchase because of insufficiency of funds. The director of the department shall use these data in preparing reports pursuant to subdivision (c) of Section 4631 and Section 4779 of the Welfare and Institutions Code, and subdivision (b) of this provision.

The regional center shall develop a written plan which specifies how the center intends to address the funding deficiency. If at any time the director of the department determines that a regional center's plan does not adequately address the funding deficiency during the contract period, the director may require the use of operational funds to reduce the deficiency in purchase of services.

(b) The Director of Developmental Services shall report on the financial status of all regional centers and their operations to the Joint Legislative Budget Committee by February 15, 1991, and May 15, 1991. The reports shall:

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(1) Identify all projections of regional center budget deficits during the reporting period.
(2) Analyze the accuracy of each identified deficit projection.
(3) Analyze the feasibility of eliminating the projected deficits by reductions in expenditures, reallocations of appropriated funds and budget augmentation.
(4) Indicate the actions planned to eliminate the projected deficits, including a description of the impact of such actions on the receipt of services needed by regional center clients during the remainder of the fiscal year.

3. Upon order of the Director of the Department of Finance, the State Controller shall transfer funds as are necessary between this item and Item 5160-101-001, to provide for the conversion of Day Programs, Supported Work Programs and Work Activity Programs to meet client service needs.
4. Any funds available from cost-of-living adjustments in the Supplemental Security Income/State Supplementary Program (SSI/SSP) shall be used to offset General Fund costs for residential care services.
5. A loan shall be made available from the General Fund to the Department of Developmental Services not to exceed a cumulative total of $12,000,000. The loan funds shall be transferred to this item as needed to meet cash-flow needs due to delays in collecting reimbursements from the Health Care Deposit Fund, and are subject to the repayment provisions of Section 16351 of the Government Code.
6. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 5160-001-001 to provide for the transportation costs to and from work activity programs of clients who are receiving vocational rehabilitation services through the Vocational Rehabilitation/Work Activity Program (VR/WAP) Transition program.
7. (a) No later than October 15, 1990, each re-

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gional center shall submit the following information to the State Department of Developmental Services in the manner and format specified by the department:

(1) The following personal services information as of September 1, 1990:
   (A) All position titles as designated by the regional center.
   (B) The number of positions established and the time base (in full-time equivalents) for each position title.
   (C) The number of positions within each established classification which have actually been filled.
   (D) The salary range for each position, including bonuses.
   (E) The total salaries, total fringe benefits, and total personal services budgeted by the regional centers for its operations.

(2) For the period September 1, 1989, to September 1, 1990, inclusive, the regional center director, chief of client services, shall disclose:
   (A) Conflict of interest information consistent with requirements of Article 1 (commencing with Section 54500) of Subchapter 2 of Chapter 3 of Part II of Title 17 of the California Code of Regulations in a format prescribed by the department.
   (B) Activities of a recurring nature that happen during normal business hours or would otherwise hinder the performance of their duties.

(3) A report of how the 6 percent cost-of-living adjustment (COLA), effective June 1, 1989, was distributed by position classification as identified in paragraph (1). If all funds were not used for staff salary COLAs, the report shall state how these funds were expended. The report shall also include the regional centers' plan for allocating any COLA

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	effective January 1, 1990, by position classification or for any other purpose for which the funds will be utilized.	
	(4) The minimum hiring qualifications for regional center director, chief of client services, chief of administrative services, case management supervisors, and client program coordinators. The regional center shall identify the number of persons by job classifications that do not meet minimum qualifications and the reasons why, or certify full compliance.	
	(5) As of September 1, 1990, the average ratio of clients-to-client program coordinators by client status, including intake and active community clients by the following categories: high-risk infant, out-of-home and in-home. If the client program coordinator serves a combination of these client types, the regional center shall establish formulas that reasonably allocate hours between client types and shall include the formulas and justification in the report.	
	(6) For the period July 1, 1989, to September 30, 1990, inclusive, a report on the number and status of persons applying for regional center services, including the number of applicants, the number determined eligible, the number determined ineligible and the basis for the determination, and the number of ineligible individuals referred to another agency or program for services, by agency or program.	
	(7) A report as of September 30, 1990, that provides all of the following:	
	(A) The number of adult clients 22 or older who receive day programs from other publicly funded sources by type of service.	
	(B) The number of adult clients 22 or older who receive transportation to and from a primary day program and/or job from public transportation or paratransit.	

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(C) The number of active clients who are Medi-Cal eligible for whom the regional center purchased a service, during the 90 days prior to September 1, that was within the Medi-Cal scope of benefits.

(8) For the period of September 1, 1989, to September 1, 1990, inclusive, a report on the regional centers' activities related to the development of residential and nonresidential services for regional center clients.

(9) A report as of September 1, 1990, on the number of developmentally disabled individuals, parents, legal guardians, or conservators who are coordinators of the developmentally disabled individuals' program plan.

(10) For the period September 1, 1989, to September 1, 1990, inclusive, a report on the number of residential and community-based day programs closed or no longer serving regional center clients by number of clients affected and current provider of the service. The report shall include the name of the program, the type of service, reason for discontinuance of the service, the number of regional center clients affected, and whether these clients are now receiving services and, if so, the name of that facility or program.

(11) (A) For the period of September 1, 1989, to September 1, 1990, inclusive, a report on the number of clients referred by the regional center to, accepted by, and placed out of, the state developmental centers.

(B) Regional centers with more than 25 SDC admissions between September 1, 1989, and September 1, 1990, shall submit additional information on steps they have taken to reduce SDC admissions.

(b) The department shall compile the infor-

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mation submitted by the regional center, and shall forward this information to the Legislature and the Department of Finance, with the department's comments, by April 1, 1991.

8. The Director of the Department of Developmental Services (DDS) shall establish an independent living demonstration project based on the "supported living model." The demonstration project shall provide appropriate residential and support services for persons with developmental disabilities who reside in their own homes. Funds for the projects shall be within the available appropriations and shall be allocated in the regional center contracts. No more than two regional centers and a total of 60 regional center clients shall participate in the Supported Life Project in the 1990–91 fiscal year. DDS, in conjunction with ARCA, shall establish criteria for project participation. DDS shall designate the participating regional centers, and evaluate the effectiveness and fiscal impact of the Supported Life Project. DDS shall provide information regarding the Project to the Legislature prior to its hearings on the 1991 budget.
9. Allocations for the operations costs associated with Targeted Case Management shall be made on a quarterly basis. At least 30 days prior to the second, third, and fourth quarters of the 1990–91 fiscal year, the department shall determine whether or not federal reimbursement for targeted case management remains reasonably likely to occur, and shall notify the Director of Finance of its determination. At the same time, if the department determines that reimbursement is no longer a reasonable possibility, it shall advise the regional centers to terminate TCM operations activities within 30 days and shall make no further quarterly allocations. No sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee, the Director of Finance shall unallot the TCM operations funds for those quarterly allocations which have been determined to be unnecessary. If this occurs, one-half of the funds unalloted shall be allocated to

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the Program Development Fund and one-half shall be used for the Regional Resource Development Projects.

10. As a condition of receiving rate increases granted in this item, the department shall require residential care providers to certify to regional centers that they do both of the following:
    (a) Pay direct care staff consistent with minimum wage laws.
    (b) Meet legally mandated requirements with respect to Workers' Compensation Insurance, and payment of benefits and payroll taxes.

    Nothing in this provision shall be construed to impose a duty or establish a basis of liability on the department or regional centers with respect to enforcement of minimum wage, workers' compensation insurance, or employee benefit and tax laws.

4300-101-172—For local assistance, Department of Developmental Services, for payment to Item 4300-101-001, payable from the Developmental Disabilities Program Development Fund 2,975,000

Provisions:

1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the Department of Developmental Services in excess of the amount appropriated, no sooner than 30 days after notification in writing of the chairperson of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or no sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.
2. The department shall report to the Legislature by October 1, 1990, if it intends to allocate more than 25 percent of that portion of the Program Development Fund that is funded throught parental fees and contributions to any or all of the following:
    (a) Department of Developmental Services operations.
    (b) Client purchase of service (transitional).

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(c) Program conversions that do not result in the net creation of new community-based beds or treatment slots.		
(d) Any other appropriation not exclusively used as startup costs for new programs.		
4300-301-036—For capital outlay, Department of Developmental Services, payable from the Special Account for Capital Outlay		3,104,000
Schedule:		
(1) 55.10.205-Minor Projects	332,000	
(1.5) 55.20.260-Camarillo Fire and Life Safety and Environmental Improvements, Units 18, 19, 30, 31, 32, 33—Construction	2,509,000	
(3) 55.55.230-Sonoma: Water Treatment Facility—Preliminary plans and working drawings	263,000	
4300-490—Reappropriation, Department of Developmental Services. Notwithstanding any other provision of law, the balance of the appropriations provided in the following citations is reappropriated for the purposes provided for in that appropriation, and shall be available for encumbrance and expenditure until June 30, 1991:		
001—General Fund:		
(1) Item 4300-101-001, Budget Act of 1989, $3,047,000, for regional centers.		
(2) Item 4300-101-172, Budget Act of 1987, $200,000, Program Development Funds for development of intermediate care facilities/developmentally disabled-nursing (ICF/DDN).		
4300-491—Reappropriation, Department of Developmental Services. The balances of the appropriations provided in the following citations are reappropriated for the purposes (and subject to limitations unless otherwise specified) provided for in the appropriations:		
036-Special Account for Capital Outlay		
(1) Item 4300-301-036(2), Budget Act of 1989, 55.65.300-Statewide, DD Units, Personal Alarms, Phase I and II-Additional construction.		
(2) Item 4300-301-036(7), Budget Act of 1988, as reappropriated by Item 4300-491, Budget Act of 1989, 55.65.200-Statewide, DD Units, Personal Alarms, Phase II-Preliminary plans, working drawings, and construction.		

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(3) Item 4300-301-036(2), Budget Act of 1988, as reappropriated by Item 4300-491, Budget Act of 1989, 55.20.260-Camarillo: Fire and Life Safety and Environmental Improvements, Units 18, 19, 30, 31, 32, and 33-Construction.		
4300-496—Reversion, Department of Developmental Services. As of June 30, 1990, the unencumbered balance of the appropriation provided in the following citation shall revert to the fund balance of the fund from which the appropriation was made.		
001—General Fund		
(1) Item 4300-003-001, Budget Act of 1989, no less than $10,728,715		
(2) Chapter 85, Statutes of 1988, $2,958,000		
4440-001-001—For support of Department of Mental Health		29,438,000
Schedule:		
(a) 10-Community Services	29,052,000	
(b) 20-State Hospital Services	8,864,000	
(c) 35.01-Departmental Administration	10,065,000	
(d) 35.02-Distributed Departmental Administration	−9,885,000	
(e) Reimbursements	−5,954,000	
(h) Amount payable from the Primary Prevention Fund (Item 4440-001-845)	−234,000	
(i) Amount payable from the Federal Trust Fund (Item 4440-001-890)	−2,128,000	
(j) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−342,000	
Provisions:		
1. Upon order of the Director of Finance, the Controller shall transfer between this item and Item 4440-016-001 those funds that are necessary for direct community services, as well as administrative and ancillary services related to the provision of direct services.		
4440-001-845—For support of Department of Mental Health, for payment to Item 4440-001-001, payable from the Primary Prevention Fund		234,000
4440-001-890—For support of Department of Mental Health, for payment to Item 4440-001-001, payable from the Federal Trust Fund		2,128,000

Item		Amount
4440-011-001—For support of the State Hospitals, Department of Mental Health		366,297,000
Schedule:		
(a) 20.10-Lanterman-Petris-Short Act	226,850,000	
(b) 20.20-Penal Code and Judicially Committed	139,447,000	
(c) 20.30-Other State Hospital Services	45,889,000	
(d) Reimbursements	−45,889,000	

Provisions:

1. The amounts appropriated above are for support of the hospitals for the mentally ill for judicially committed patients, patients committed pursuant to the Penal Code or patients committed pursuant to the Lanterman-Petris-Short Act.
2. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Items 4440-101-001, 4300-003-001, 5240-001-001, and 5460-001-001.
3. Upon order of the Director of Finance, the Controller shall transfer between this item and Item 4440-016-001 those funds that are necessary for direct community services, as well as administrative and ancillary services related to the provision of direct services.
4. Upon order of the Director of Finance, the Controller shall transfer between this item and Item 4440-141-001 those funds which are necessary to support patients who may be transferred to a state hospital as the result of the decertification of the special treatment program in a skilled nursing facility funded by Item 4440-141-001.
5. Of the amount appropriated in Schedule 20.10, $105,000 is provided for payment of energy service contracts as required in connection with issuance of Public Works Board Energy Efficiency Revenue Bonds (State Pool Program), Series 1986 A.
6. Of the amount appropriated in Schedule (b), and following approval by the Department of Mental Health, up to $571,000 is available to reimburse counties for the cost of treatment and legal services to patients in the four Department of Mental Health State Hospitals, pursuant to Section 4117 of the Welfare and Institutions Code, provided, that expenditures made under this item shall be charged to either the fiscal

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year in which the claim is received or the fiscal year in which the Controller issues the warrant. Provided further, that claims filed by local jurisdictions for legal services may be scheduled by the Controller for payment.		
7. Of the amount appropriated in category (a), up to $1,487,000 is available to provide state hospital resources, including the cost of 38 additional staff persons, to San Diego County as a result of the order of the court in County of San Diego, et al. v. D. Michael O'Connor, et al. This amount shall remain available until the time that the court's order is extinguished.		
4440-016-001—For support, Department of Mental Health, for Conditional Release Services		12,506,000
Schedule:		
(a) 10-Community Services	12,506,000	
Provisions:		
1. The funds in this item shall be used to provide community services as provided in Section 5709.8 of the Welfare and Institutions Code. These funds shall support direct community services, as well as administrative and ancillary services related to the provision of direct services.		
2. Upon order of the Director of Finance, the Controller shall transfer between this item and Items 4440-001-001 and 4440-011-001 those funds that are necessary for direct community services, as well as administrative and ancillary services related to the provision of direct services.		
4440-101-001—For local assistance, Department of Mental Health		518,352,000
Schedule:		
(a) 10.15-Community Residential Treatment System.....	15,910,000	
(b) 10.25-Community Services—other treatment.....	550,710,000	
(c) 10.40-Adult System of Care Pilots.....	11,747,000	
(d) 10.50-Mental Health Services for Wards and Dependents.....	3,700,000	
(e) 10.55.020-Targeted Supplemental Services: Alternatives to inappropriate jail placement.....	4,983,000	
(f) 10.55.030-Targeted Supplemental Services: Priority population services.....	4,752,000	

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	(1) Inappropriate jail placements	
	(2) Mentally disordered persons who require secure facilities	
	(3) Mentally disabled, elderly, and veterans	
	(4) Juvenile sex offenders and juvenile victims of sex offenses	
	(5) Victims with AIDS	
(g)	10.65-Residential Care Services....	16,557,000
(h)	10.75-Homeless Mentally Disabled .	19,518,000
(i)	10.85-AIDS.....	1,500,000
(j)	Reimbursements.....	−111,025,000

Provisions:

1. The amounts appropriated in this item are for assistance to local agencies in the establishment and operation of mental health services, in accordance with the provisions of Division 5 (commencing with Section 5000) of the Welfare and Institutions Code, Department of Mental Health, and in addition, any amounts transferred from the Health Care Deposit Fund shall augment and be available for expenditure for the purposes specified above.
2. The Director of Finance may authorize the transfer of funds from this item to the Health Care Deposit Fund for the state's share of expenditures for mental health services provided to patients eligible under the California Medical Assistance Program.
3. Upon order of the Director of Finance, the Controller shall transfer between this item and Item 4440-011-001 those funds which are necessary to provide for overuse of allocated state hospital days. Other transfers between this item and Item 4440-011-001 may be made not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of the committee, or his/her designee, may in each instance determine.
4. Upon order of the Director of Finance, the Controller shall transfer between this item and Item 4440-141-001 those funds which are neces-

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sary to provide alternative services to patients who may be transferred to other facilities as the result of the decertification of the special treatment program in a skilled nursing facility funded by Item 4440-141-001. Other transfers between this item and Item 4440-141-001 may be made not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of the committee, or his/her designee, may in each instance determine.

5. In administering the residential care rate supplement program, the department shall continue its procedures to ensure that the program is operated within the available appropriation as scheduled in category (f).
6. Notwithstanding any other provisions of law, funds identified in Item 4440-101-001 of the Budget Act of 1989, for rollover by the counties in fiscal year 1990–91, shall be used only for the specified purpose for which they were allocated or for capital outlay purposes, subject to the review and approval of the Department of Mental Health. Community services programs shall not be reduced to provide funds to rollover for capital outlay purposes.
7. Notwithstanding any other provisions of this act, no funds in category (a), (e), (f), (g), (h) or (i) shall be transferred to other categories within this item or to any other items except as specified in Provision 8.
8. In order to provide relief from administrative requirements and budget restrictions which would create an undue hardship, small counties may combine allocations from categories, (e), (f) and (h) into category (b) to be used for Short-Doyle funded programs with the approval of the State Director of Mental Health provided that the following conditions are met:
   a. Local unmet priorities are identified in Part B, County Plan Executive Summary.
   b. The county agrees to comply with all required submissions for data collection.
   c. The county has demonstrated that specific

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	needs do not exist to establish special programs with categorical funds and/or categorical funds do not exist in amounts that make it programmatically or fiscally feasible to implement programs. The county must show that an attempt to maximize the use of public funds for identified populations has been made on a regional basis. Small counties are defined as those with a population of less than 1% of the total statewide population based on the most current Department of Finance population estimate.	
	9. Augmentations to reimbursements in this item from the Office of Emergency Services for Disaster Relief are exempt from the provisions of Section 28.00. The Department of Mental Health will provide written notification to the Joint Legislative Budget Committee describing the nature and planned expenditure of such funds when the amount received exceeds $100,000.	
	11. Funds appropriated in schedule (d), mental health services for wards and dependents, shall not be subject to Section 5600 of the Welfare and Institutions Code. The Department of Mental Health shall allocate these funds as follows: The Department of Mental Health, in consultation with the Department of Social Services and the Conference of Local Mental Health Directors, shall contract with counties selected through a request for application process for the delivery of mental health assessment services to court wards and dependents in accordance with Section 5407 of the Welfare and Institutions Code, until the completion of the test period required for the assessment instrument. A portion of the treatment funds are to be allocated to the selected counties based on numbers of priority population children identified during the required test period.	
	12. Of the amount appropriated in this item, $1,500,000 shall be used for the purposes of funding additional Adult System of Care Pilot Project sites pursuant to Chapter 982 of the Statutes of 1988.	

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4440-101-311—For local assistance, Department of Mental Health, Program 10—Community Services, for Traumatic Brain Injury Demonstration Projects, all funds which are transferred into the Traumatic Brain Injury Fund pursuant to subdivision (g) of Section 1464 of the Penal Code.....	500,000
4440-101-845—For local assistance, Department of Mental Health, payable from the Primary Prevention Fund.....	1,738,000
4440-101-890—For local assistance, Department of Mental Health, payable from the Federal Trust Fund.....	21,458,000

Schedule:

(a) 10.25-Community Services—other treatment	18,368,000
(b) 10.75-Homeless Mentally Disabled.....	3,090,000

Provisions:

1. The amounts appropriated in this item are for assistance to local agencies in the establishment and operation of mental health services, in accordance with the provisions of Division 5 (commencing with Section 5000) of the Welfare and Institutions Code.
2. The Department of Mental Health may authorize advance payments of federal grant funds on a monthly basis to the counties for grantees. Such advance payments may not exceed one-twelfth of the individual grant award for 1990–91.
3. The Department of Mental Health shall, to the extent possible, ensure that funds received pursuant to the Stewart B. McKinney Homeless Assistance Act of 1987 are expended in coordination with other funds available, both federal and state, for homeless chronically mentally disabled persons.

   Funds may be allocated by the department for the following purposes: outreach, community mental health, diagnostic services, administrative costs, supportive and supervisory services to clients in residential settings, habilitation/rehabilitation care, referrals, staff training and case management.

   Not more than 4 percent of the funds allocated to counties may be used for administrative costs associated with increased program ser-

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vices, unless a county can document to the Department of Mental Health that a program needs in excess of 4 percent.

The department shall encourage counties to utilize these funds for services to the following chronically mentally disabled homeless target populations: (a) substance abusers, and (b) women.

Up to $500,000 of the funds available to the department through the Stewart B. McKinney Homeless Assistance Act of 1987 shall be allocated to continue funding for not more than three homeless demonstration projects. The target populations to be serviced by demonstration projects shall be severely mentally disabled persons who are homeless and (a) substance abusers or (b) women.

To the extent possible, the department shall coordinate with both the demonstration projects and the Department of Housing and Community Development to obtain adequate funding, pursuant to Chapter 36 of the Statutes of 1987, for transitional or long-term housing for demonstration project clients. If requested, the department shall provide any additional guidance and assistance necessary to ensure the success of the demonstration projects.

4440-111-001—For local assistance, Department of Mental Health, for services to brain damaged adults 5,257,000

4440-131-001—For local assistance, Department of Mental Health, for services to special education pupils 15,116,000

Schedule:

(a) 10.80-Assessments, treatment, and case management of special education pupils pursuant to Chapter 1747 of the Statutes of 1984 and Chapter 1274 of the Statutes of 1985 15,791,000

(b) Reimbursements ..... −675,000

Provisions:

1. In allocating to the counties funds for services to seriously emotionally disturbed children, as defined by paragraph 8 of subdivision (b) of Section 300.5 of Title 34 of the Code of Federal Regulations, the Department of Mental Health may

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	allocate the funds based on the individual county's needs, in lieu of Section 5600 of the Welfare and Institutions Code.	
	2. Notwithstanding Section 7587 of the Government Code, the emergency regulations developed to implement Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code shall not be subject to automatic repeal until the final regulations take effect on or before June 30, 1991.	
4440-141-001—For local assistance, Department of Mental Health, for services provided in Institutions for Mental Diseases		72,585,000
	Schedule:	
	(a) 10.95 Institutions for Mental Diseases 85,617,000	
	(b) Reimbursements ..... −13,632,000	
	Provisions:	
	1. The funds appropriated in this item shall be used to provide mental health services for persons who are 64 years of age and under, in skilled nursing facilities/special treatment programs (SNF/STP/IMD) in accordance with Division 5 (commencing with Section 5000) of the Welfare and Institutions Code and as approved for funding by the Department of Mental Health.	
	2. Notwithstanding any other provision of law, counties shall not be required to match funds in this item.	
	3. Notwithstanding any provision of Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code, the Department of Mental Health may enter into sole source contracts with SNF/STP/IMD facilities.	
	4. Allocations from this item shall not be subject to Section 5600 of the Welfare and Institutions Code. The Department of Mental Health may also limit the number of beds which will be reimbursed with the funds provided.	
	5. Notwithstanding any other provision of law, the Department of Mental Health may authorize estimated or advanced payments to SNF/STP/IMD programs. These payments shall be adjusted, as necessary, to reflect actual utilization and shall be offset by revenues. These payments shall not be limited to nonprofit facilities.	

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6. The operation of SNF/STP/IMD programs shall be consistent with Department of Mental Health policies and regulations for 24-hour care facilities.
7. Prior to any payment being made, a provider shall enter into a placement agreement with each county from which it accepts a patient.
8. Rates of payment for SNF/STP/IMDs in this item shall be limited to the Medi-Cal SNF/STP rate. In order to receive this level of payment, SNF/STP/IMDs shall continue to provide the level of services required prior to the loss of federal funding. Any reductions in services below this level shall be accompanied by rate reductions equal to the savings in costs attributable to reducing services.
9. A loan shall be made available to the Department of Mental Health from the General Fund, subject to approval by the Department of Finance, not to exceed a cumulative total of one-twelfth of the amount which is appropriated in Schedule (a) of this item. The loan funds shall be transferred to this item as needed to meet cash-flow needs due to delays in the collection of SSI/SSP reimbursements, and subject to the repayment provisions of Section 16351 of the Government Code.
10. Upon order of the Director of Finance, the Controller shall transfer between this item and Item 4440-011-001 and/or Item 4440-101-001 those funds which are necessary to support patients who may be transferred to the state hospitals and/or other facilities as the result of the decertification of the special treatment program in a skilled nursing facility funded by this item. Other transfers between this item and Item 4440-101-001 may be made not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of the committee, or his/her designee, may in each instance determine
13. The department shall establish a methodology for the allocation of beds in IMDs for use in the

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1990–91 fiscal year. This methodology shall ensure that the number of existing IMD beds currently available to a county is not reduced. The department's methodology shall allocate newly funded beds according to the following priorities:

(a) First, the department shall designate additional beds in the 1990–91 fiscal year, consistent with the requirements of the department's Alternative Disposition Plan with the federal Health Care Financing Administration regarding alternative placements for persons currently residing in nursing homes that are determined to require active treatment.

(b) Second, to establish placements for persons currently residing in state hospitals that are more appropriately placed in an IMD.

(c) Third, to provide additional IMD beds, on a regional basis, to counties whose current resources are less than their relative need, as determined by the department's poverty/population formula.

14. (a) Effective January 1, 1991, and subject to the enactment of legislation specifically authorizing collection of SSI/SSP by IMD providers, IMD providers shall collect SSI/SSP independent living grants from patients or their designated payees.

(b) IMD providers shall enter into preadmission agreements with patients or their designated payees regarding the collection of SSI/SSP grants, and shall remit these payments to the department at the end of each service month. The department shall assist facilities in determining the appropriate amount of a patient's SSI/SSP grant.

(c) It is the intent of the Legislature that, subject to the enactment of legislation specifically authorizing collection of SSI/SSP by IMD providers, SSI/SSP grants shall be treated as third-party revenue effective July 1, 1991, and an appropriate reduction shall be made in the department's reimbursement authority in the 1991–92 fiscal year.

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4440-301-036—For capital outlay, Department of Mental Health, payable from the Special Account for Capital Outlay		17,933,000
Schedule:		
(1) 55.10.205-Minor Projects	503,000	
(1.5) 55.18.220-Atascadero: Fire and Life Safety Improvements and Remodel Patient Living Areas—Construction	3,139,000	
(2) 55.18.235-Atascadero: Construct Multipurpose Building—Preliminary plans	215,000	
(3) 55.18.240-Atascadero: Additional Warehouse Space—Construction	1,417,000	
(4) 55.35.245-Metropolitan: Develop and Upgrade James Hall—Working drawings and construction	1,189,000	
(5) 55.45.225-Patton: Fire and Life Safety and Environmental Improvements, 30 Building—Construction	10,226,000	
(6) 55.45.250-Patton: Fire and Life Safety and Environmental Improvements, 70 Building—Working drawings	701,000	
(7) 55.45.255-Patton: Security System—Preliminary plan, working drawings, and construction	543,000	

4440-490—Reappropriation, Department of Mental Health. Notwithstanding any other provision of law, the balances of the appropriations provided in the following citations are reappropriated on the effective date of this act for the purpose (and subject to the limitations, unless otherwise specified) provided for in these appropriations and shall be available for expenditure until June 30, 1991:

001—General Fund

(1) Item 4440-001-001, Budget Act of 1989, $231,000 for support of the Department of Mental Health for administrative support of the activities associated with the implementation of Chapter 982 of the Statutes of 1988 (AB 3777).

(2) Item 4440-001-001, Budget Act of 1988, $168,000 for support of the Department of Mental Health for administrative support of the activities associated with the implementa-

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tion of Chapter 982 of the Statutes of 1988 (AB 3777).

(3) Item 4440-016-001, Budget Act of 1989, $1,500,000 for support of the Conditional Release Program.

(4) Item 4440-001-001, Budget Act of 1989, $621,000 for administrative costs associated with screening nursing home patients.

Provisions:

1. The $621,000 reappropriated in category (4) shall be used for the purposes of (1) contracting for a study to design staffing standards for the state hospitals, and (2) establishing 2.5 positions assocated with that study. The study shall serve as a basis for state hospital staffing standards to be effective beginning in the 1992–93 fiscal year. An interim report shall be submitted to the Legislature by May 1, 1991, and the final study shall be submitted to the Legislature by December 1, 1991. The standards shall include the following:
   (a) Tie staffing requirements to the type of beds on a ward, client dysfunction, and the amount of planned scheduled treatment to be delivered.
   (b) Provide for the department to conduct periodic surveys of actual client characteristics that (1) are sufficient to yield reliable results, and (2) measure specific, objective, and quantifiable patient characteristics. These surveys shall serve as the basis for annual level-of-illness adjustments.
   (c) Provide for an adequate level of patient supervision to ensure the personal safety of state hospital staff.

4440-491—Reappropriation, Department of Mental Health. The balances of the appropriations provided for in the following citations are reappropriated for the purposes (and subject to the limitations unless otherwise specified) provided for in the appropriations.

036—Special Account for Capital Outlay:

(1) Item 4440-301-036, Budget Act of 1989.

(2) 55.18.220-Atascadero: Fire and Life Safety Improvements and Remodel Patient Living Areas—Construction.

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5100-001-001—For support of Employment Development Department, for payment to Item 5100-001-870 22,944,000

5100-001-184—For support of Employment Development Department, for payment to Item 5100-001-870, payable from the Employment Development Department Benefit Audit Fund 7,743,000

5100-001-185—For support of Employment Development Department, for payment to Item 5100-001-870, payable from the Employment Development Contingent Fund 20,551,000

Provisions:

1. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated for administration pursuant to Section 1586 of the Unemployment Insurance Code.
2. Notwithstanding the provisions of Item 9840-001-494, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item.

5100-001-514—For support of Employment Development Department, for payment to Item 5100-001-870 , payable from the Employment Training Fund 93,459,000

Schedule:

(a) 10—For Transfer to Item 5100-001-870 25,741,000
(b) 20—For transfer to Item 5100-001-870 2,927,000
(c) 50—Employment Training Panel. 64,791,000

Provisions:

1. Notwithstanding Section 2 of this act, any unexpended balance in the Employment Training Fund as of June 30, 1990, is hereby appropriated for transfer to and in augmentation of this item, for allocation by the Employment Training Panel for job training contracts and shall not be reverted to the Unemployment Fund.
2. All activities to market, negotiate, or otherwise locate employers or other agencies interested in providing training with funds supplied by the Employment Training Panel shall be supported with funds allocated for the administration of the Employment Training Panel.
3. Notwithstanding Section 2.00 of this act, funds

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disencumbered from Employment Training Fund job training contracts during fiscal year 1990–91 are hereby appropriated for transfer to, and in augmentation of, this item for allocation by the Employment Training Panel for job training contracts and shall not be reverted to the Unemployment Fund. The Employment Development Department shall notify the Legislature by September 1, 1991, of the actual amount of funds appropriated pursuant to this provision.

4. The Employment Training Panel shall advise groups and organizations assisting eligible newly legalized individuals and the Job Training Partnership Act, Title IV-A, Section 402 grantees who assist farmworkers in meeting the requirements of permanent resident status under the federal Immigration Reform and Control Act (Public Law 99-601), to direct qualified eligible aliens to the Employment Training Panel programs. Of the amount appropriated in Provision 1, a minimum of $5,000,000 shall be reserved until March 1, 1991, for training contracts for seasonal farmworkers and qualified eligible newly legalized individuals under the Immigration Reform and Control Act. Thereafter, the unencumbered balance may be made available for other Employment Training Panel programs.
5. Notwithstanding subdivision (a) of Section 1611 of the Unemployment Insurance Code, no funds accruing to the Employment Training Fund during the 1989–90 fiscal year shall be transferred to the Unemployment Fund.
6. Of the funds appropriated in schedule (a), $18,000,000 shall be available for administrative costs of the Employment Services 90 Percent Program for 1990–91 and $7,741,000 shall be available for support of the Service Center program for fiscal year 1990–91.
7. The funds appropriated in schedule (a) for transfer to Item 5100-001-870 for administrative costs of the Employment Services 90 Percent and Service Center programs for the 1990–91 fiscal year shall not be deemed an administrative cost for purposes of subdivision (a), paragraph

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(2) of Section 10206 of the Unemployment Insurance Code.

5100-001-588—For support of Employment Development Department, for payment to Item 5100-001-870, payable from the Unemployment Compensation Disability Fund 90,877,000

Provisions:

1. The Employment Development Department shall submit on October 1 and April 20, to the Department of Finance for its review and approval, an estimate of expenditures for both the current and budget years, including the assumptions and calculations underlying EDD projections for support expenditures from this item. The Department of Finance shall approve, or modify, the assumptions underlying all estimates within 15 working days of their receipt. If the Department of Finance does not approve or modify in writing, the assumptions underlying all estimates within 15 working days of receipt, the Employment Development Department shall consider the assumptions and calculations approved as submitted. If the Department of Finance determines that the estimate of support expenditures differs from the amount appropriated by this item, the Director of Finance shall so report to the Legislature. At the time the report is made, the amount of this appropriation shall be adjusted by the difference between this Budget Act appropriation and the DOF approved estimate. Revisions for the support of the Disability Insurance program reported pursuant to this provision are not subject to the provisions of Section 28.00 of this act.
2. Notwithstanding the provisions of Item 9840-001-988, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item.

5100-001-869—For support of state programs under the Job Training Partnership Act, Employment Development Department, payable from the Consolidated Work Program Fund 56,807,000

Schedule:

(a)	60.11-Administrative Cost Pool.....	10,046,000
(b)	60.20-Incentive and Technical Assistance.....	10,237,000

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(c) 60.30-Older Workers	5,433,000	
(d) 60.40-Educational Linkages	14,487,000	
(e) 60.51-Special Local Projects	364,000	
(f) 60.60-Displaced Workers	15,440,000	
(g) 60.65-Veterans	800,000	
Provisions:		
1. Funds appropriated under this item for (b) 60.20, Incentive and Technical Assistance, can be transferred to Item 5100-101-869, upon the approval of the Department of Finance, when Service Delivery Areas decide to operate projects under the federal guidelines of (b) 60.70, Adult and Youth Training Programs.		
5100-001-870—For support of Employment Development Department, payable from the Unemployment Administration Fund—Federal		380,487,000
Schedule:		
(a) 10-Employment and Employment Related Services	164,196,000	
(b) 20-Tax Collection and Benefit Payments	410,658,000	
(c) 30.01-General Administration	37,877,000	
(d) 30.02-Distributed General Administration	−35,390,000	
(e) 50-Employment Training Panel	64,791,000	
(f) Reimbursements	−24,614,000	
(g) Amount payable from the General Fund (Item 5100-001-001)	−22,944,000	
(h) Amount payable from the Employment Development Department Benefit Audit Fund (Item 5100-001-184)	−7,743,000	
(i) Amount payable from the Employment Development Contingent Fund (Item 5100-001-185)	−20,551,000	
(j) Amount payable from the Employment Training Fund (Item 5100-001-514)	−93,459,000	
(k) Amount payable from the Unemployment Compensation Disability Fund (Item 5100-001-588)	−90,877,000	
(*l*) Amount payable from the School Employees Fund (Item 5100-001-908)	−573,000	
(m) Amount payable from the State Legalization Impact Assistance Grant (Sec. 23.50)	−884,000	

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Provisions:

1. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 1555 of the Unemployment Insurance Code.
2. The Employment Development Department (EDD) shall submit on October 1 and April 20, to the Department of Finance for its review and approval an estimate of expenditures for both current and budget years, including the assumptions and calculations underlying EDD projections for support expenditures for the Unemployment Insurance program from this item. The Department of Finance shall approve, or modify, the assumptions underlying all estimates within 15 working days of their receipt. If the Department of Finance does not approve or modify in writing the assumptions underlying all estimates within 15 working days of receipt, the Employment Development Department shall consider the assumptions and calculations approved as submitted. If the Department of Finance determines that the estimate of support expenditures differs from the amount appropriated by this item, the Director of Finance shall so report to the Legislature. At the time the report is made, the amount of this appropriation shall be adjusted by the difference between this appropriation and the Department of Finance approved estimate for the Unemployment Insurance program. Revisions for the support of the Unemployment Insurance program reported pursuant to this provision are not subject to the provisions of Section 28.00 of this act.
3. To the extent that available federal funding is insufficient to support employment data and research positions at the budgeted level, funds shall be appropriated from the Employment Development Contingent Fund, up to a total of $263,000, to substitute for these federal funds.
4. Pursuant to Section 14669 of the Government Code, the Director of General Services, acting on behalf of the Employment Development Department, may enter into a lease-purchase agreement or a lease with an option to purchase, with an initial option purchase price over $2,000,000, to provide adequate office and park-

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ing facilities for area offices in Riverside, Bakersfield, Salinas and Redding . 5. It is the intent of the Legislature to provide the level of funding necessary to maintain the Employment Services 90 Percent Program at its current service level. The appropriation of $18,000,000 in Employment Training Fund interest earnings to support the Employment Services Program in fiscal year 1990–91 is the result of extraordinary circumstances, is proposed on a one-time basis and is not intended as a permanent or alternate funding source for the program.	
5100-001-908—For support of Employment Development Department, for payment to Item 5100-001-870, payable from the School Employees Fund	573,000
Provisions: 1. Notwithstanding the provisions of Item 9840-001-988, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item. 2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated for administration pursuant to Section 822 of the Unemployment Insurance Code. 3. Provision 2 of Item 5100-001-870 is also applicable to this item.	
5100-011-185—For support of Employment Development Department payable from Employment Development Contingent Fund. Notwithstanding any other provision of law, the State Controller shall transfer to the General Fund the amount, as determined by the Director of Finance, in the Employment Development Contingent Fund as of June 30, 1991, which is in excess of the $1,000,000 reserve required by Section 1590 of the Unemployment Insurance Code.	
5100-011-890—For support of Employment Development Department, payable from the Federal Trust Fund, for transfer to the Unemployment Administration Fund.....	(380,487,000)
5100-021-890—For support of Employment Development Department, payable from the Federal Trust Fund, for transfer to the Consolidated Work Program Fund.....	(56,807,000)

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5100-101-588—For local assistance, Employment Development Department, for Program 20—Tax Collections and Benefit Payments, payable from the Unemployment Compensation Disability Fund..... 1,910,600,000

Provisions:

1. Notwithstanding the provisions of Item 9840-001-988, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item.
2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 3012 of the Unemployment Insurance Code.
3. The Employment Development Department shall submit on October 1 and April 20, to the Department of Finance for its review and approval, an estimate of expenditures for both current and budget years, including the assumptions and calculations underlying EDD projections for benefits payable from this item. The Department of Finance shall approve, or modify the assumptions underlying all estimates within 15 working days of their receipt. If the Department of Finance does not approve or modify in writing the assumptions underlying all estimates within 15 working days of receipt, the Employment Development Department shall consider the assumptions and calculations approved as submitted. If the Department of Finance determines that the estimate of benefit expenditures differs from the amount appropriated by this item, the Director of Finance shall so report to the Legislature. At the time the report is made, the amount of this appropriation shall be adjusted by the difference between this Budget Act appropriation and the DOF approved estimate. Revisions reported pursuant to this provision are not subject to the provisions of Section 28.00 of this act.

5100-101-869—For local assistance under the Job Training Partnership Act, Employment Development Department, payable from the Consolidated Work Program Fund 222,299,000

Schedule:

(a) 60.60-Displaced Worker Program.. 12,467,000

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(b) 60.70-Adult and Youth Training Programs..... 141,251,000	
(c) 60.80-Summer Youth Programs.... 68,581,000	
5100-101-870—For local assistance, Employment Development Department, for Program 20—Tax Collections and Benefit Payments, payable from the Unemployment Administration Fund.....	2,910,000
Provisions:	
1. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 1555 of the Unemployment Insurance Code.	
2. Provision 3 of Item 5100-101-588 is also applicable to this item.	
5100-101-871—For local assistance, Employment Development Department, for Program 20—Tax Collections and Benefit Payments, payable from the Federal Unemployment Fund	2,120,616,000
Provisions:	
1. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 1521 of the Unemployment Insurance Code.	
2. Provision 3 of Item 5100-101-588 is also applicable to this item.	
5100-101-890—For local assistance, Employment Development Department, payable from the Federal Trust Fund, for transfer to the Consolidated Work Program Fund.....	(222,299,000)
5100-101-908—For local assistance, Employment Development Department, for Program 20—Tax Collections and Benefit Payments, payable from the School Employees Fund	16,270,000
Provisions:	
1. Notwithstanding the provisions of Item 9840-001-988, the Director of the Department of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item.	
2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated for benefits pursuant to Section 822 of the Unemployment Insurance Code.	
3. Provision 3 of Item 5100-101-588 is also applicable to this item.	

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5100-111-890—For local assistance, Employment Development Department, payable from the Federal Trust Fund		(2,123,526,000)
Schedule:		
(a) For transfer to the Federal Unemployment Fund (871)	(2,120,616,000)	
(b) For transfer to the Unemployment Administration Fund (870)	(2,910,000)	
5100-301-185—For capital outlay, Employment Development Department, payable from the Employment Development Department Contingent Fund, for transfer to the Unemployment Administration Fund—Federal		(153,000)
Schedule:		
(1) 80.81.002 San Jose Office: Renovation and Asbestos Abatement—Preliminary plans, working drawings and construction	(82,000)	
(2) 80.26.001 Stockton Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	(19,000)	
(3) 80.29.001 Santa Barbara Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	(17,000)	
(4) 80.45.001 Hollywood Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	(35,000)	
5100-301-588—For capital outlay, Employment Development Department, payable from the Unemployment Compensation Disability Fund, for transfer to the Unemployment Administration Fund—Federal		(445,000)
Schedule:		
(1) 80.81.002 San Jose Office: Renovation and Asbestos Abatement—Preliminary plans, working drawings and construction	(349,000)	
(2) 80.26.001 Stockton Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	(53,000)	

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(3) 80.29.001 Santa Barbara Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	(43,000)	
5100-301-870—For capital outlay, Employment Development Department, payable from the Unemployment Administration Fund—Federal		1,005,000
Schedule:		
(1) 80.81.002 San Jose Office: Renovation and Asbestos Abatement—Preliminary plans, working drawings, construction	650,000	
(2) 80.26.001 Stockton Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	126,000	
(3) 80.29.001 Santa Barbara Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	100,000	
(4) 80.45.001 Hollywood Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	129,000	
Provisions:		
1. Notwithstanding any other provision of law, the following amounts in the Architecture Revolving Fund, as authorized in the following citations, may be expended by the Employment Development Department for preliminary planning, working drawings and construction costs associated with the San Jose Office Renovation and Asbestos Abatement project authorized by this item:		
a. Item 5100-001-870, Budget Act of 1984, for support of Employment Development Department	36,739	
b. Item 5100-301-870, Budget Act of 1984, for Capital Outlay, Employment Development Department, (2) 80.37.020-Minor projects	177,622	
c. Item 5100-001-870, Budget Act of 1986, for support of Employment Development Department	7,633	

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d. Item 5100-301-870, Budget Act of 1986, for Minor Capital Outlay, Employment Development Department (80.37.020)...	46,201	
e. Item 5100-301-870, Budget Act of 1987, for Capital Outlay, Employment Development Department, (2) 80.37.040—Minor projects.....	55,000	
f. Item 5100-001-870, Budget Act of 1988, for support of Employment Development Department.....	146,725	
g. Item 5100-301-870, Budget Act of 1988, for Capital Outlay, Employment Development Department, (1) 80.37.040—Minor projects	199,000	
h. Item 5100-301-870, Budget Act of 1989, for Capital Outlay, Employment Development Department, (1) 80.37.040—Minor projects	153,000	
5100-301-890—For capital outlay, Employment Development Department, payable from the Federal Trust Fund, for transfer to the Unemployment Administration Fund—Federal.....		(407,000)
5100-490—Reappropriation, Employment Development Department. As of June 30, 1990, the balance of the appropriation provided in Item 5100-101-869, Budget Act of 1989, is reappropriated for transfer to and in augmentation of Item 5100-101-869, Budget Act of 1990, and shall be available for encumbrance and expenditure through June 30, 1991.		
Provisions:		
1. The Employment Development Department shall notify the Legislature by December 1, 1990, of the actual amount of 1989–90 Federal Job Training Partnership Act local assistance funds carried forward into 1990–91 for expenditure.		
5160-001-001—For support of Department of Rehabilitation.....		27,125,000
Schedule:		
(a) 10-Vocational Rehabilitation Services.....	177,759,000	

Item		Amount
(b) 20-Habilitation Services	2,617,000	
(c) 30-Support of Community Facilities	2,397,000	
(d) 40.01-Administration	15,363,000	
(e) 40.02-Distributed Administration	−15,363,000	
(f) Reimbursements	−3,532,000	
(g) Amount payable from the Federal Trust Fund (Item 5160-001-890)	−152,116,000	

Provisions:

1. In order to participate in the Mental Health Initiative, a county shall identify, in its joint proposal with a local office of the Department of Rehabilitation, cash and in-kind resources it shall make available for prevocational and other services to supplement vocational rehabilitation resources.
2. Upon order of the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Item 4300-101-001 to provide for the transportation costs to and from work activity programs of clients who are receiving vocational rehabilitation services through the Vocational Rehabilitation/Work Activity Program (VR/WAP) Transition program.

5160-001-890—For support of Department of Rehabilitation, for payment to Item 5160-001-001, payable from the Federal Trust Fund 152,116,000

Provisions:

1. Of the amount appropriated in this item, $6,144,000 (an additional $1,536,000 is the General Fund match) shall be used for the Vocational Rehabilitation/Work Activity Program (VR/WAP) Pilot Program to purchase work activity services for the evaluation of the habilitation clients to determine eligibility for transition into vocational rehabilitation.

5160-101-001—For local assistance, Department of Rehabilitation..... 80,462,000

Schedule:

(a) 10-Vocational Rehabilitation Services	655,000	
(b) 20-Habilitation Services	74,456,000	
(1) 20.10 Work Activity Program	53,554,000	

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(2) 20.30 Counselor-Teacher and Reader Services...	102,000		
(3) 20.40 Supported Employment Services	20,800,000		
(c) 30-Support of Community Facilities		5,351,000	

Provisions:

1. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4300-101-001 to provide for the conversion of Day Programs, Supported Work Programs and Work Activity Programs to meet client service needs.
2. Upon order of the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Item 5160-001-001 to provide the state's share of client service expenditures for habilitation clients who are eligible to become vocational rehabilitation clients.
3. For the purposes of determining eligibility for state incentive funds provided pursuant to Section 19806 of the Welfare and Institutions Code, the department shall establish the "base year" for the three independent living centers designated in Contra Costa, Nevada, and Santa Cruz Counties by determining the actual amount raised from private resources during the fiscal year for the first, state-funded grant given by the department to these independent living centers.
4. Of the amount appropriated by this item, $148,000 shall be allocated to augment current funding for the Center for the Partially Sighted.

5180-001-001—For support of Department of Social Services			99,324,000
Schedule:			
(a) 10-Welfare Program Operations...	61,143,000		
(b) 20-Social Services Programs.....	34,633,000		
(c) 30-Community Care Licensing	44,172,000		
(d) 40-Disability Evaluation Program...	116,665,000		
(f) 60.01-Administration.....	22,535,000		
(g) 60.02-Distributed Administration .	−15,090,000		
(h) Reimbursements.....	−10,567,000		

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(i) Amount payable from Foster Family Home and Small Family Home Insurance Fund (Item 5180-001-131)		−740,000
(j) Amount payable from the Federal Trust Fund (Item 5180-001-890)		−152,641,000
(k) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)		−786,000

Provisions:

1. The Director of Finance may authorize the transfer of General Fund moneys from Item 5180-001-001(c) to Item 5180-161-001, Program 30, Community Care Licensing, in order to allow counties to perform the facilities evaluation function.
2. Of the funds appropriated by this item, $36,000 is for payment of attorney fees which become due and owing pursuant to Section 10962 of the Welfare and Institutions Code in 1989–90 and 1990–91.
3. The Director of Finance may authorize the transfer of General Fund moneys from Item 5180-001-001(b) to Item 5180-151-001(d), Adoptions, in order to allow counties to perform the adoption programs function.

5180-001-131—For support of Department of Social Services, for payment to Item 5180-001-001, for claims payments and the operation and maintenance of the Foster Family Home and Small Family Home Insurance Fund 740,000

5180-001-890—For support of Department of Social Services, for payment to Item 5180-001-001, payable from the Federal Trust Fund 152,641,000

Provisions:

1. The Director of Finance may authorize the transfer of federal funds from this item to Items 5180-161-890 and 5180-151-890, in order to allow counties to perform the facilities evaluation function in community care licensing and the adoptions program functions in Social Services, respectively.
2. The department may contract with up to five persons to work closely with the refugee communities to assist in the development of refugee

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community-based organizations and to assist such organizations to acquire and develop the capacity to compete for and operate refugee funded programs or to provide other services to refugees.		
5180-011-001—For support of Department of Social Services, for transfer to the Foster Family Home and Small Family Home Insurance Fund		504,000
5180-011-890—For support of Department of Social Services, for transfer to the Foster Family Home and Small Family Home Insurance Fund		236,000
5180-101-001—For local assistance, Department of Social Services		2,962,897,000
Schedule:		
(a) 10.04.005-Aid to Families with Dependent Children	5,552,747,000	
(b) 10.04.010-Child Support Incentives	62,313,000	
(c) 10.04.015-Aid for Adoption of Children/Adoption Assistance Program	53,608,000	
(d) 10.04.020-Transitional Child Care..	38,233,000	
(e) Amount payable from the Federal Trust Fund (Item 5180-101-890)	−2,741,622,000	
(f) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−2,382,000	
Provisions:		
1. No funds appropriated by this item shall be encumbered unless every rule or regulation adopted and every all-county letter issued by the Department of Social Services which adds to the cost of any welfare program is approved by the Department of Finance as to the availability of funds before it becomes effective. In making the determination as to availability of funds to meet the expenditures of a rule, regulation, or all-county letter which would increase the costs of a welfare program, the Director of Finance shall consider the amount of the proposed increase on an annualized basis, the effect such change would have on the expenditure limitations for such program set forth in this act, the extent to which the rule, regulation, or all-county letter constitutes a deviation from the		

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premises under which the expenditure limitations were prepared, or any additional factors relating to the fiscal integrity of such program or the state's fiscal situation.

Notwithstanding the provisions of Sections 27.00 and 28.00, the availability of funds contained in this item for welfare rules, regulations, or all-county letters which add to program costs funded from the General Fund in excess of $500,000 on an annual basis, including those that are the result of a federal regulation but excluding those that are (a) specifically required as a result of the enactment of a federal or state law, or (b) included in the appropriation made by this act, shall not be approved by the Director of Finance sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.

Funds appropriated in this item are for welfare programs as they exist on July 1, 1990, consisting of state and federal statutory law, regulations, and court decisions, if funds necessary to carry out such decisions are specifically appropriated in this act.

For purposes of this provision "welfare" shall mean those program elements under "Welfare Program Operations," as found in the Governor's Budget and consistent with definitions used in the California Fiscal Information System (CFIS).

2. The Department of Social Services shall administer the public assistance programs so that the counties will bear no more than the amount of welfare costs that they would be obligated to bear under the applicable provisions of the Welfare and Institutions Code, without the expenditure limitations set forth herein, and so that the amount authorized to be expended in Program 10.04, Aid to Families with Dependent Children program shall fully cover the state share of aid payments and for services under such programs for the 1990–91 fiscal year.

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3. There is hereby established for the next two quality control review periods, a dollar error rate standard of 4 percent, pursuant to Section 15200.4 of the Welfare and Institutions Code.

   For the purposes of state sanctions pursuant to Section 15200.4 of the Welfare and Institutions Code, the error rate estimate that shall be used to measure the quality performance of each county shall be the low point estimate of the confidence interval estimated by combining the results from the two quality review samples conducted during the two subsequent quality review periods.

   Amounts realized from the counties as the result of a state fiscal sanction shall first be applied as an offset to the state's share of Program 10.04, Payments for Children. To the extent that this application results in a surplus to the General Fund appropriation for that program, such surplus shall revert to the General Fund.
4. The Director of Finance is authorized to approve expenditures in those amounts made necessary by changes in either caseload or payments, or any rule or regulation adopted and any all-county letter issued in Program 10.04, Payments for Children, as a result of the enactment of a federal or state law, the adoption of a federal regulation, or the following of a court decision, during the 1990–91 fiscal year which are within or in excess of amounts appropriated in this act for that year.

   If the Director of Finance determines that the estimate of expenditures will exceed the expenditures authorized for Program 10.04, Payments for Children, the director shall so report to the Legislature. At such time as the report is made, the amount of the limitation shall be increased by the amount of such excess unless and until otherwise provided by law.
5. Notwithstanding Chapter 1 (commencing with Section 18000) of Part 6 of Division 9 of the Welfare and Institutions Code, a loan not to exceed $142,000,000 shall be made available from the General Fund from funds not otherwise appropriated, to cover the federal share of costs for the Aid to Families with Dependent Children program when the federal share has not been

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received by this state prior to the usual time for transmitting such federal share to the counties of this state. Such loan from the General Fund shall be repaid when the federal share becomes available.

6. Pursuant to subdivision (b) of Section 903.7 of the Welfare and Institutions Code, the Department of Social Services shall authorize the quarterly transfer of the state share of collections attributable to Sections 903, 903.4, and 903.5 of the Welfare and Institutions Code to the Foster Children and Parent Training Fund. From these collections, and prior to any transfer of funds, there shall be a deduction for the appropriate amount of county child support collection incentives.
7. The Director of Finance may authorize the transfer of amounts, cumulatively not to exceed $1,300,000, from this item to Item 5180-151-001 (a) (1), Social Services Program—Child Welfare Services, in order to advance funds to pilot counties to conduct a program of family reunification and family maintenance services pursuant to Chapter 105, Statutes of 1988.
8. It is the intent of the Legislature that the State Department of Social Service restructure the Homeless Assistance Program to improve methods in eligibility verification and improve accountability to save the General Fund $5 million.

5180-101-890—For local assistance, Department of Social Services, for payment to Item 5180-101-001, payable from the Federal Trust Fund 2,741,622,000

Provisions:

1. Provisions 1–4, inclusive, of Item 5180-101-001 are also applicable to this item.

5180-111-001—For local assistance, Department of Social Services 2,274,828,000

Schedule:

(a) 10.08-SSI/SSP 2,292,228,000
(b) Amount payable from the Federal Trust Fund (Item 5180-111-890) .. −3,290,000
(c) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50) ..... −14,110,000

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Provisions:		
1. Provision 1 of Item 5180-101-001 is also applicable to this item.		
5180-111-890—For local assistance, Department of Social Services, for payment to Item 5180-111-001, payable from the Federal Trust Fund		3,290,000
Provisions:		
1. Provision 1 of Item 5180-101-001 is also applicable to this item.		
5180-121-001—For local assistance, Department of Social Services		4,194,000
Schedule:		
(a) 10.12-Special Adult Programs	4,269,000	
(b) Amount payable from the Federal Trust Fund (Item 5180-121-890)	−75,000	
Provisions:		
1. Provision 1 of Item 5180-101-001 is also applicable to this item.		
5180-121-890—For local assistance, Department of Social Services, for payment to Item 5180-121-001, payable from the Federal Trust Fund		75,000
Provisions:		
1. Provision 1 of Item 5180-101-001 is also applicable to this item.		
5180-131-890—For local assistance, Department of Social Services, Program 10.24—Refugee Cash Assistance Programs, payable from the Federal Trust Fund		30,970,000
5180-141-001—For local assistance, Department of Social Services, Program 10.20—County Administration		180,734,000
Schedule:		
(a) 10.20-County Administration	798,811,000	
(b) Amount payable from the Federal Trust Fund (Item 5180-141-890)	−617,627,000	
(c) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−450,000	
Provisions:		
1. The Department of Social Services may act in the place of any county and assume direct responsibility for the administration of eligibility and grant determination. Upon recommendation of the Director of Social Services, the Director of Finance may authorize the transfer of funds from Items 5180-141-001 and 5180-141-890,		

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to Items 5180-001-001 and 5180-001-890 for this purpose.

2. During the 1990–91 fiscal year, pursuant to Sections 15204.5 and 18906 of the Welfare and Institutions Code, the Department of Social Services shall continue the implementation of a plan whereby costs for county administration for AFDC and Food Stamp Programs will be effectively controlled within the total state funds appropriated for Program 10.20, County Administration.

   Notwithstanding any provisions of the Welfare and Institutions Code to the contrary, the total amount of state funds available to the counties for administration of the programs specified in Program 10.20, County Administration, shall be limited to the amount appropriated for that program.

3. Notwithstanding any other provisions of law, the Department of Social Services may withhold state financial support of a county's automated welfare operations if the county does not provide a fiscal accounting of such operations in the form and manner as may be requested by the department. Provided further, that the Department of Social Services may enter into an agreement with a county wherein state financial support for the development or modification of county-automated welfare operations is conditioned upon the realization of savings projected by the county.

4. Provision 1 of Item 5180-101-001 is also applicable to this item.

5. Of the funds appropriated in this item for costs of administering the Special Circumstances Program, the department shall limit state reimbursement for an individual county's administrative costs to 100 percent of the county's total benefit expenditures, or actual administrative costs, whichever is less.

6. When performance refinements and modifications to a county EDP system are needed to meet Statewide Automated Welfare System (SAWS) requirements that will benefit additional counties, the Department of Social Services may pay the first counties' share of administrative costs incurred for those modifications.

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The department is restricted to paying for the first counties' share for no more than five SAWS systems.			
7. Any unexpended balance from Item 5180-141-001 in the fiscal year 1989–90 Budget Act is reappropriated to the Department of Finance to fund necessary expenditures in this item for fiscal year 1990–91 which cannot be funded within the amount appropriated.			
5180-141-890—For local assistance, Department of Social Services, for payment to Item 5180-141-001, payable from the Federal Trust Fund			639,591,000
Provisions:			
1. Provisions 1–5, inclusive, of Item 5180-141-001 are also applicable to this item.			
5180-151-001—For local assistance, Department of Social Services, Program 20—Social Services Programs			819,632,563
Schedule:			
(a) 20.30-Other County Social Services		523,952,000	
(1) 20.30.010-Child Welfare Services Grant	449,420,000		
(2) 20.30.030-County Services Block Grant	74,532,000		
(b) 20.35-Specialized Adult Services		646,723,000	
(1) 20.35.220-In-Home Supportive Services	641,127,000		
(2) 20.35.240-Maternity Care	2,154,000		
(3) 20.35.250-Access Assistance for the Deaf	3,442,000		
(c) 20.40-Employment Services		194,253,126	
(d) 20.42-Adoptions		30,229,000	
(e) 20.45-Refugee Assistance Services		39,769,000	
(f) 20.47-Child Abuse Prevention		20,300,000	
(g) Reimbursements (Federal-funds)	−3,235,000		
(h) Amount payable from the Federal Trust Fund (Item 5180-151-890)		−632,358,563	

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Provisions:

1. The amounts contained in this schedule are for Social Services Programs, for the cost of special social services programs for which federal grants in aid are made to the state; for grants or services to local agencies for the extension of child welfare services as provided by Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of the Welfare and Institutions Code; for the cost of the adoption programs and care of children, to be expended in accordance with the provisions of Chapter 2 (commencing with Section 16100) of Part 4 of Division 9 of the Welfare and Institutions Code; for the costs incurred by counties, including, but not limited to, the required county funds, for in-home supportive services as provided by Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, and for prevention of child abuse and neglect as provided by Chapter 11 (commencing with Section 18950) of Part 6 of Division 9 of the Welfare and Institutions Code.
2. Provision 1 of Item 5180-101-001 is also applicable to this item.
3. Notwithstanding Chapter 1 (commencing with Section 18000) of Part 6 of Division 9 of the Welfare and Institutions Code, a loan not to exceed $22,800,000 may be made available from the General Fund from funds not otherwise appropriated upon the approval of the Director of Finance to cover the federal share of costs for the In-Home Supportive Services Program when the federal share has not been received by this state prior to the usual time for transmitting such federal share to the counties of this state. Such loan from the General Fund shall be repaid when the federal share becomes available.
4. The amount appropriated in Item 5180-151-001(b)(2), Program 20.35.240-Maternity Care, is appropriated in lieu of the amounts which would otherwise be appropriated pursuant to Sections 16148 and 16151 of the Welfare and Institutions Code.
5. Budgets for approved county plans shall clearly identify the amount necessary to meet the child care needs of GAIN participants. The Depart-

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ment of Social Services shall not approve any county request to use child care funds for any other purpose without providing written notification to the Legislature of the request. Approval of such a request may not occur any earlier than after 30 days' written notification to the Joint Legislative Budget Committee and the Joint Committee on the Oversight on GAIN.

6. Recognizing that the availability of child care is essential to economic self-sufficiency, it is the intent of the Legislature to fund child care services as necessary to support the goal of full employment.

When a child care provider under contract with the State Department of Education (SDE) provides child care services to GAIN participants who are enrolled in a GAIN component or awaiting enrollment in a GAIN component, the county welfare department shall reimburse the provider for the cost of that child care.

Children receiving services under an SDE contract, whose parents subsequently become GAIN participants, shall continue to receive services paid by the SDE contract until such time as the parents are no longer income-eligible for the subsidy.

An SDE provider shall not be compensated by both SDE and a county welfare department for the same service to the same person for the same time period.

The Department of Social Services and SDE shall enter into a memorandum of understanding that specifies a maintenance-of-effort requirement by SDE programs for AFDC recipients. This memorandum of understanding shall use data collected by SDE and certified by the Auditor General.

7. The Director of Finance may authorize the transfer of amounts from this item to Item 5180-001-001, Program 20 Social Services programs, in order to allow the state to perform the adoption programs function in the event the counties fail to perform such functions.
8. Notwithstanding Chapter 1 (commencing with Section 18000) of Part 6 of Division 9 of the Welfare and Institutions Code, a loan not to exceed $50,000,000 shall be made available from the

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General Fund from funds not otherwise appropriated, to cover Title IV-E eligible costs when the federal share has not been received by the state in a timely manner. The loan shall be made available prior to the usual time for transmitting this federal share to the counties. The loan from the General Fund shall be repaid when the federal share of costs becomes available.

9. Of the amount appropriated in this item, $250,000 shall be expended contingent upon passage of, and pursuant to the provisions of, Assembly Bill 3805 of the 1989–90 Regular Session.
10. No funds appropriated in this item shall be spent for contracts that do not satisfy all statutory requirements with respect to contract procurement and reprocurement. Counties shall satisfy the following requirements when procuring or reprocuring GAIN contracts that are to be made on a competitive basis and are to exceed an annual cost in excess of $3,000,000.
    (a) The county shall make the request for proposals (RFP) available to all interested potential bidders, including any governmental agency, on a timely basis and in no event later than five months before the projected date of implementation of the new contract. The county shall broadly advertise the availability of the RFP.
    (b) In cases of reprocurement, the county shall make available to all interested potential bidders (1) a copy of the current contract, including any statement of work, liquidated damages provisions, and budget, and (2) any existing written material pertinent to the contract, such as any program interpretation or operations manual in use by the current contractor. The RFP shall indicate that this information is available to interested potential bidders.
    (c) The RFP shall include detailed descriptions of the process that the county will use to determine whether bidders are qualified and to select the contractor.
    (d) The county shall invite the Department of Social Services to nominate state staff to sit on any committees or task forces that re-

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	view bids and bidders for the purposes of determining whether a bidder is qualified and for purposes of rating the bids. (e) The county shall give due consideration to cost effectiveness in the procurement and reprocurement process, consistent with existing statutory requirements. No contract shall be awarded if the Department of Social Services determines that the function or service provided in the contract could be more cost effectively provided by county staff. In making this determination, however, the department shall not find any contract to be more cost-effective than the county staff alternative if the sole reason for the contractor's competitive advantage is that the contractor provides a benefit package to its line staff that is substantially less than the benefit package that the county provides to its own line staff. (f) The rating system used to select the winning bidder from among all the qualified bidders shall, at a minimum, consider cost, quality, and the benefit package provided to line staff. Counties may disqualify bidders based on considerations of fiscal soundness and corporate capability, or for any other reason related to potential performance. In addition, counties shall include in the RFP a statement informing the potential contractor that any audit exceptions arising against a GAIN contractor shall be the financial responsibility of the county, not the state. 11. Two hundred fifty thousand dollars ($250,000) of the funds otherwise allocated to the two Prevention Training Centers under this item shall be utilized by the Department of Social Services to enter into an interagency agreement with the State Department of Education for the purpose of conducting an independent evaluation of the training of preschool through grade 12 students provided under the Maxine Waters Child Abuse Prevention Training Act (CAPTA). Based on the statutory description of the programs, the evaluation shall review	

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the age appropriateness of the education components of the funded projects and measure the degree to which the funded projects are meeting their performance objectives. To the extent possible, the evaluation shall also measure the knowledge gained by parents and pupils as a result of the program; and assess the extent to which training received results in child abuse disclosures, the degrees of substantiated versus unsubstantiated disclosures made as a result of exposure to this training, and the degree to which the training results in the delivery of Child Welfare or Victim-Witness Assistance Services. A preliminary report shall be delivered to the Departments of Education and Social Services involved, as well as to the Governor and the legislative policy and fiscal committees, no later than April 1, 1991, and a final report shall be submitted no later than April 1, 1992.

Notwithstanding provisions otherwise contained in Sections 18977 to 18979, inclusive, of the Welfare and Institutions Code, the Department of Social Services shall assess the advisability of continuing to fund two separate Prevention Training Centers and, if determined appropriate, shall act to competitively select and fund a single, statewide Prevention Training Center with the capacity to provide appropriate training and technical assistance to all California Primary Prevention Project grantees.

12. The Department of Social Services shall comply with the provisions of Sections 12300, 12300.1, 12301, 12301.1, 12301.2, 12301.5, 12302, 12302.1, 12302.2, 12302.4, 12303, 12303.4, 12303.5, 12303.7, 12304, 12304.1, 12304.2, 12304.3, 12304.5, 12305, 12305.5, 12306, 12306.1, 12306.5, 12306.6, 12307, 12308, 12309, 12310, 12311, 12312, 12314, 12350, and 12351 of the Welfare and Institutions Code in establishing and approving In-Home Supportive Services (IHSS) programs.

Any IHSS program which violates these sections shall not be funded.

The department shall not interfere with, or in any way encourage the termination or reduction of, IHSS contract programs established

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pursuant to these sections which are lawfully fulfilling their contractual obligations.

13. In allocating funds for the Child Welfare Services Program, the department shall use the most accurate caseload data available, including data for Los Angeles County as revised based on the department's caseload study conducted in 1989–90. The director shall take no action that would result in diminished direct services to children in Los Angeles County. To the extent that the use of this data indicates that the county would need less than the amount included in this item, based on the data that was available at the time this act was enacted, the Director of Finance shall allocate the remaining funds in the following order:
    (a) First, up to $500,000 shall be transferred from this item to Item 5180-001-001, Program 30-Community Care Licensing, to cover any one-time and startup costs for the Department of Social Services to begin operation of the Community Care Licensing Program in Los Angeles County.
    (b) Second, additional funds, if determined to be necessary by the Director of Finance, shall be transferred from this item to Item 5180-001-001, to cover any costs relating to the continued efforts of the Department of Social Services regarding Child Welfare Services Program compliance in Los Angeles County.
    (c) Third, any remaining funds shall revert to the General Fund.
14. Within 10 days of the effective date of this act, the Director of Social Services shall report to the Legislature on whether the County of Los Angeles is substantially out of compliance with any of the provisions of state law or regulation regarding the operation of the county's Child Welfare Services Program. If the director determines that the county is not in substantial compliance, he or she shall direct the County of Los Angeles to submit a detailed plan for bringing the county into compliance to the Department of Social Services no later than October 1, 1990. If, as of October 1, 1990, the County of Los Angeles has not (1) submitted a plan

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	that addresses the problems identified by the director and (2) made substantial progress in correcting these problems, the director shall order the county to appear before the director to show cause why the director should not take administrative action to secure compliance pursuant to paragraph (2) of subdivision (b) of Section 10605 of the Welfare and Institutions Code and shall report this action to the Legislature. Under these circumstances, the director shall make his or her determination and invoke the appropriate sanction no later than January 1, 1991. In the event that the Director of Social Services certifies to the Director of Finance that the County of Los Angeles is unable to substantially comply with the laws and regulations regarding the operation of the Child Welfare Services Program, and that the Director of Social Services plans to begin direct administration of the program, the Director of Finance shall transfer the amount of funds necessary for this purpose from this item to Item 5180-001-001, Program 20-Social Services Programs. 15. Out of the amount appropriated in this item, $1,500,000 shall be used to reestablish the funding for the five Adult Protective Services pilot projects.	
5180-151-890—For local assistance, Department of Social Services, for payment to Item 5180-151-001, payable from the Federal Trust Fund		632,358,563
Provisions: 1. Provisions 1 and 3 of Item 5180-151-001 and Provision 1 of Item 5180-101-001 are also applicable to this item. 2. The Director of Finance may authorize the transfer of amounts from this item to Item 5180-001-890 in order to allow the state to perform the adoption programs functions in the social services program in the event the counties fail to perform such function.		
5180-158-001—For local assistance, Department of Social Services, for the Greater Avenues for Independence (GAIN) program in Los Angeles County...		20,823,437
Schedule: (a) Los Angeles County GAIN program	41,646,874	

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	(1) Maintenance of GAIN case management service based upon the June 30, 1990, caseload	7,900,000
	(2) Maintenance of GAIN services, excluding case management, based upon the June 30, 1990, caseload	26,000,000
	(3) Report to the chairs of the fiscal committees of the Legislature, the Director of Social Services, and the Director of Finance to include, (A) notification by July 1, 1991, of termination of the contract with Maximus for case management, (B) a plan for prompt hiring of merit employees to implement the county GAIN program, and (C) a plan for provision of services to clients participating in the county GAIN program as of June 30, 1990....	7,746,874
(b)	Amount payable from the Federal Trust Fund (Item 5180-158-890) ..	—20,823,437

Provisions:

1. Upon order of the Director of Finance, the Controller shall release the funds appropriated in subcategory (3) of category (a) upon written notification by Los Angeles County of termination of the Maximus contract for case management and submission of a plan for hiring of

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merit employees to implement the county GAIN program, and a plan for serving those who were clients as of June 30, 1990. On the same date as receipt of the required notification and submission of the plan, the Controller shall make a pro rata reduction to subcategory (3) of category (a) based on the portion of the fiscal year transpired. At that time, a one-time allocation in the same amount as that reduction shall be transferred to, and in augmentation of, Item 5180-151-001 for other county GAIN programs according to the prescribed allocation methodology of the Department of Social Services. The difference between the amount reduced and the total of subcategory (3) of category (a) shall simultaneously be released for GAIN services, exclusive of Maximus, in Los Angeles County. If, by January 15, 1991, the Legislature has not received the required report, all funds scheduled in subcategory (3) of category (a) shall be transferred in augmentation of Item 5180-151-001 and reallocated to all counties other than Los Angeles according to the prescribed allocation methodology of the Department of Social Services.

2. Funds scheduled for maintenance of effort in subcategories (1) and (2) of category (a) shall not be used for any new intakes of clients into the GAIN program.

5180-158-890—For local assistance, Department of Social Services, for payment to Item 5180-158-001, payable from the Federal Trust Fund 20,823,437

5180-161-001—For local assistance, Department of Social Services 11,478,000

Schedule:

(a) 30-Community Care Licensing 15,138,000

(b) Amount payable from the Federal Trust Fund (Item 5180-161-890) .. −3,660,000

Provisions:

1. The Director of Finance may authorize the transfer of amounts from this item to Item 5180-001-001, Program 30—Community Care Licensing, in order to allow the state to perform the facilities evaluation function in the event the counties fail to perform such function.
2. Of the amount appropriated by this item, no more than $800,000 shall be allocated for the administration of the Los Angeles County Com-

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	munity Care Licensing Program during the period from July 1, 1990, to and including September 30, 1990. No later than October 1, 1990, the Director of Finance shall authorize the transfer of the remainder of the funds included in this item for support of the Los Angeles County Community Care Licensing Program from this item to Item 5180-001-001, Program 30—Community Care Licensing, and the state shall administer the Community Care Licensing Program in Los Angeles County.	
5180-161-890—For local assistance, Department of Social Services, for payment to Item 5180-161-001, payable from the Federal Trust Fund		3,660,000
Provisions:		
1. The Director of Finance may authorize the transfer of amounts from this item to Item 5180-001-890 in order to allow the state to perform the facilities evaluation function in the Community Care Licensing Program in the event the counties fail to perform such function.		
5180-181-001—For local assistance, Department of Social Services, Program 97.10—Special Adjustments-Cost of Living Adjustments, to be transferred to and in augmentation of programs, upon approval of the Department of Finance, effective July 1, 1990, in accordance with the following schedule ..		262,866,000
Schedule:		
(a) 10.04.005-Aid to Families with Dependent Children (for transfer to Item 5180-101-001)	237,574,000	
(b) 10.08-SSI/SSP (for transfer to Item 5180-111-001)	145,550,000	
(c) 10.20-County Administration (for transfer to Item 5180-141-890)	14,760,000	
(d) 10.24-Refugee Cash Assistance (for transfer to Item 5180-131-890)	1,428,000	
(e) 20-Social Services Programs (for transfer to Items 5180-151-001 and 5180-151-890)	7,448,000	
(f) Amount payable from the Federal Trust Fund (Item 5180-181-890) .	—143,894,000	

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5180-181-890—For local assistance, Department of Social Services, payable from the Federal Trust Fund, to be transferred to and in augmentation of programs, upon approval of the Department of Finance, effective July 1, 1990..... 143,894,000

5180-490—Reappropriation, Department of Social Services. Notwithstanding any other provision of law, the appropriations provided in the following citations are reappropriated on the effective date of this act for the purposes (and subject to the limitations unless otherwise specified) provided for in the appropriations and shall be available for expenditure until June 30, 1991:

001—General Fund

(1) Up to $265,000 of the appropriation provided in Item 5180-001-001, Budget Act of 1989, Program 20, Social Services Programs, is reappropriated for transfer to and in augmentation of Item 5180-001-001 of the Budget Act of 1990, Program 20, Social Services Programs, for the purpose of the implementation of court-ordered judgments in the In-Home Supportive Services Program.

(2) $9,000,000 of the appropriation provided in Item 5180-151-001 of the Budget Act of 1989, Program 20.40, Employment Services, is reappropriated for transfer to and in augmentation of Item 5180-151-001 of the Budget Act of 1990, Program 20.40, Employment Services, for the purpose of maintaining local assistance allocations in the Greater Avenues for Independence program at fiscal year 1989–90 levels.

5180-495—Reversion, Department of Social Services. Notwithstanding any other provision of law, as of June 30, 1990, the unencumbered balance of the appropriation provided in the following citations shall revert to the fund balance of the fund from which the appropriation was made.

001—General Fund

(1) Section 6(b) of Chapter 16, Statutes of 1986, as amended by Chapter 1131, Statutes of 1987.

(2) Chapter 14, Statutes of 1989 (balance in Fund 249, California Individual and Family Supplemental Grant Fund).

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YOUTH AND ADULT CORRECTIONAL AGENCY

5240-001-001—For support of Department of Corrections 2,096,173,000

Schedule:

(a) 21-Institution Program 2,006,314,000
(b) 31-Community Correctional Program 191,818,000
(c) 41.01-Administration 146,938,000
(d) 41.02-Distributed Administration ..... −147,738,000
(dx) Unallocated ..... −20,600,000
(e) Reimbursements ..... −19,119,000
(i) Amount payable from the 1990 Prison Construction Fund (Item 5240-001-751) ..... −30,500,000
(j) Amount payable from the Federal Trust Fund (Item 5240-001-890) .. −217,000
(k) Amount payable from the Inmate Welfare Fund (Item 5240-001-917) ..... −30,723,000

Provisions:

1. Funds appropriated to accommodate projected institutional population levels in excess of those which actually materialize, if any, shall revert to the General Fund, unless the encumbrance of such funds is authorized by the Department of Finance, not sooner than 30 days after notification in writing of the necessity therefor, to the legislative fiscal committees and the Joint Legislative Budget Committee.
2. Funds appropriated to accommodate projected parole population levels in excess of those which actually materialize, if any, shall revert to the General Fund, unless the encumbrance of such funds is authorized by the Department of Finance, not sooner than 30 days after notification in writing of the necessity therefor, to the legislative fiscal committees and the Joint Legislative Budget Committee.
3. Of the amount appropriated in Schedule (a), $7,058,000, plus amounts required for employee compensation increases, shall be available for payment to the Department of Forestry and Fire Protection to augment Item 3540-001-001. This amount shall be sufficient for the support of newly activated conservation camps during the

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1990–91 fiscal year. Funds not used for this specific purpose shall revert to the General Fund.

4. No positions for the new prisons and camps proposed for activation in the 1990–91 fiscal year may be filled prior to 30 days' advance notification to the Department of Finance, the legislative fiscal committees and the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.
5. The Department of Corrections shall notify the Joint Legislative Budget Committee and the fiscal committees of the Legislature of any changes in the department's weapons policies within 30 days of the change. Reportable changes include, but are not limited to, changes in weapon sizes or type, conversions of nonarmed posts to armed posts, and any changes in Section 4800 of the department's operations manual.
6. It is the intent of the Legislature that the Department of Corrections shall utilize funds appropriated by this item to maintain, at a minimum, its current level of staff employed in accordance with Sections 12000 to 12005, inclusive, of the Unemployment Insurance Code.
7. The Department of Corrections shall pursue federal funds to the extent possible to support increased substance abuse programs for inmates and parolees.
8. None of the funds appropriated in this item shall be used to implement permanent changes in the security classification or mission of an existing prison or prison under construction without prior approval of the Legislature through the annual Budget Act. Overcrowding of an institution shall not be considered a mission change for purposes of this provision. Funds may be used to enact temporary mission changes that are expected to last less than 12 months. Beginning in 1991, the Department of Corrections shall list in its facilities Master Plan each temporary mission change in effect at the time of the report, the reason for each mission change, the amount of time that the mission change has been in effect and the expected termination date, as well as

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proposed permanent mission changes.	
9. Of additional federal funds that are provided for this item pursuant to Item 8100-101-890, $2,356,000 shall be used for inmate substance abuse programs.	
10. The Department of Corrections shall zero-base the 1991–92 budget of Folsom Prison by December 1, 1990, and shall zero-base the budget of Deuel Vocational Institute by the May Revision of the Governor's 1991–92 Budget. The department shall provide a report to the Joint Legislative Budget Committee and the legislative fiscal committees by December 1, 1990, detailing their progress and the methodology used to derive the budgets.	
5240-001-751—For support of the Department of Corrections, for payment to Item 5240-001-001, payable from the 1990 Prison Construction Fund	30,500,000
Provisions:	
1. Of the amount appropriated in this item, up to $2,500,000 shall be available for the defense of contractor claims arising from the new prison construction program. Any funds unused at the end of the 1990–91 fiscal year shall revert to the 1990 Prison Construction Fund.	
5240-001-890—For support of the Department of Corrections, for payment to Item 5240-001-001, payable from the Federal Trust Fund.....	217,000
5240-001-917—For support of the Department of Corrections, for payment to Item 5240-001-001, payable from the Inmate Welfare Fund.....	30,723,000
5240-003-001—For support of the Department of Corrections.....	93,659,000
Provisions:	
1. Of the amount appropriated in this item, $12,382,000 is provided for lease payments and insurance costs as required in connection with issuance of Lease Revenue Bonds, 1985 Series A (Southern Maximum Security Complex); $16,709,000 is provided for lease payments and insurance costs as required in connection with issuance of Lease Revenue Bonds, 1986 Series A (Mule Creek State Prison); $35,541,000 is provided for lease payments and insurance costs as required in connection with issuance of Lease Revenue Bonds, 1986 Series A (California State Prison, Corcoran) and $29,027,000 is provided	

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	for lease payments and insurance costs as required in connection with issuance of Lease Revenue Bonds, 1987 Series A (Pelican Bay State Prison).	
5240-101-001—For local assistance, Department of Corrections		24,845,000
Schedule:		
(a) 21-Institution Program	10,791,000	
(b) 31-Community Correctional Program	14,054,000	
Provisions:		
1. The amount appropriated by this item is provided for the following purposes:		
a. To pay the transportation costs of prisoners to and between state prisons, including the return of parole violators to prison and for the conveying of persons under provisions of Division 3 (commencing with Section 3000) of the Welfare and Institutions Code and the Western Interstate Corrections Compact (commencing with Section 11190 of the Penal Code), in accordance with the provisions of Section 26749 of the Government Code. Provided, that claims filed by local jurisdictions shall be filed within six months after the end of the month in which such transportation costs are incurred; and provided further, that expenditures shall be charged to either the fiscal year in which the claim is received by the State Controller or the fiscal year in which the warrant is issued by the State Controller.		
Provided further, that claims filed by local jurisdictions directly with the State Controller may be paid by the Controller.		
b. To pay the expenses of returning fugitives from justice from outside the state, in accordance with the provisions of Sections 1389, 1549 and 1557 of the Penal Code. Provided, that claims filed by local jurisdictions shall be filed within six months after the end of the month in which expenses are incurred, that expenditures shall be charged to either the fiscal year in which the claim is received by the State Controller or the fiscal year in which the warrant is issued by the State Controller, and any restitution received by the		

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state for such expenses be credited to the appropriation of the year in which the State Controller's receipt is issued.

Provided further, that claims filed by local jurisdictions directly with the State Controller may be paid by the Controller.

c. To pay court costs and county charges, payable under Sections 4700.1, 4750 to 4755, inclusive, and 6005 of the Penal Code. Provided, that claims shall be filed by local jurisdictions within six months after the end of the month in which a service is performed by the coroner, a hearing is had on the return of a writ of habeas corpus, the district attorney declines to prosecute a case referred by the Department of Corrections, a judgment is rendered for a court hearing or trial, an appeal ruling is rendered for the trial judgment, or an activity is performed as permitted by these sections; and provided further, that expenditures shall be charged to either the fiscal year in which the claim is received by the State Controller or the fiscal year in which the warrant is issued by the State Controller.

Provided further, that claims filed by local jurisdictions directly with the State Controller may be paid by the Controller.

d. To reimburse counties for the cost of detaining state parolees pursuant to Section 4016.5 of the Penal Code. However, claims shall be filed by local jurisdictions within six months after the end of the month in which the costs are incurred. Claims for retroactive rate adjustments to original claims are exempt from this six months' limitation. Expenditures shall be charged to either the fiscal year in which the claim is received by the Department of Corrections or the fiscal year in which the warrant is issued by the State Controller.

The Department of Corrections, with the approval of the Department of Finance, may transfer funds from Item 5240-101-001, Schedule (b) to Item 5240-001-001, Schedule (a) for the purpose of contracting with private providers for the placement of inmates prior to release on parole or in lieu of return to prison, subject to the condition that the De-

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partment of Corrections can demonstrate that these contracts are cost-effective.		
5240-301-747—For capital outlay, Department of Corrections, payable from the 1988 Prison Construction Fund		1,472,000
Schedule:		
(1) 61.03.200-California Correctional Center, Susanville: Emergency Electrical Systems Improvements—Construction augmentation	603,000	
(2) 61.09.400-California Medical Facility, Vacaville: Emergency Electrical System Improvements—Construction augmentation	95,000	
(3) 61.12.200-San Quentin State Prison: Emergency Electrical System Improvements—Construction augmentation	573,000	
(4) 61.13.200-California Institution for Women, Frontera: Emergency Electrical System Improvements—Construction augmentation	28,000	
(5) 61.16.200-Sierra Conservation Center, Jamestown: Emergency Electrical System Improvements—Construction augmentation	173,000	
5240-301-751—For capital outlay, Department of Corrections, payable from the 1990 Prison Construction Fund		23,163,000
Schedule:		
(1) 61.01.001-Statewide—Budget Packages and Advance Planning.	200,000	
(3) 61.04.201-California Correctional Institution, Tehachapi: Brine Ponds, Phase I—Construction augmentation	259,000	
(4) 61.05.502-Correctional Training Facility, Soledad: Custody Program/Administration Building, South Facility—Working drawings and construction	3,678,000	
(5) 61.05.503-Correctional Training Facility, Soledad: New Gymnasium Building, South Facility—Construction	1,078,000	

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(6) 61.05.505-Correctional Training Facility, Soledad: Family Visiting Duplexes—Preliminary plans, working drawings and construction	550,000
(7) 61.06.008-Deuel Vocational Institution, Tracy: Replace Locking Device System, East and West Halls—Construction	1,941,000
(8) 61.06.502-Deuel Vocational Institution, Tracy: Upgrade Electrical Distribution System—Construction	663,000
(9) 61.06.503-Deuel Vocational Institution, Tracy: 100-Bed Dormitory, Minimum Facility—Working drawings and construction	919,000
(10) 61.07.204-California State Prison, Folsom: Library Building—Working drawings and construction	681,000
(11) 61.07.205-California State Prison, Folsom: Renovation of Institution's Infrastructure—Study	400,000
(12) 61.07.207-California State Prison, Folsom: Lower Yard Security Modifications—Working drawings and construction	430,000
(12.5) 61.08.514-California Institution for Men, Chino: Hospital Licensure—Construction augmentation	636,000
(13) 61.08.517-California Institution for Men, Chino: Reception/Visitor Processing Building and Parking—Construction	1,298,000
(14) 61.08.520-California Institution for Men, Chino: Brine Waste Disposal, RC-East and Minimum —Study	90,000
(15) 61.12.406-San Quentin State Prison: Upgrade Primary and Secondary Electrical Distribution System—Preliminary plans and working drawings	63,000

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(16) 61.12.407-San Quentin State Prison: Replace 500 Level II Beds and Support Facilities—Study and preliminary plans	498,000
(16.5) 61.13.201-California Institution for Women, Frontera: Boilers and Boiler Facility Upgrade—Preliminary plans and working drawings	246,000
(17) 61.13.508-California Institution for Women, Frontera: Install Light Standards—Construction	718,000
(18) 61.14.030-Minor Projects	2,722,000
(19) 61.15.410-California Rehabilitation Center, Norco: New Domestic Water Supply System—Construction	2,465,000
(20) 61.15.411-California Rehabilitation Center, Norco: Upgrade Primary and Secondary Electrical Distribution System—Preliminary plans and working drawings	70,000
(21) 61.15.412-California Rehabilitation Center, Norco: Visitor Processing Building—Working drawings and construction	825,000
(21.5) 61.15.413-California Rehabilitation Center, Norco: Boilers and Boiler Facility Upgrade—Preliminary plans and working drawings	224,000
(22) 61.16.201-Sierra Conservation Center, Jamestown: Security Locks, Doors and Window Sashes, Calaveras Unit—Construction	1,381,000
(23) 61.16.203-Sierra Conservation Center, Jamestown: Fire Training Center—Construction	577,000
(24) 61.16.205-Sierra Conservation Center, Jamestown: Security Lighting-Mariposa and Calaveras Yards—Working drawings and construction	454,000
(25) 61.16.206-Sierra Conservation Center, Jamestown: Primary and Secondary Electrical Distribution System—Study	97,000

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Provisions:

1. The funds appropriated in Schedule (1) are to be allocated by the Department of Corrections, upon approval by the Department of Finance, to develop design and cost information for new projects for which funds have not been previously appropriated, but for which preliminary plan funds, working drawing funds, and working drawing and construction funds are expected to be included in the 1991–92 or 1992–93 Governor's Budget, and for which cost estimates or preliminary plans can be developed prior to legislative hearings on the 1991–92 and 1992–93 Governor's Budgets, respectively. These funds may be used for all of the following: budget package development, architectural programming, engineering assessments, schematic design, and preliminary plans. The amount appropriated in this item for that purpose is not to be construed as a commitment by the Legislature as to the amount of capital outlay funds it will appropriate in any future year.

5240-311-746—For capital outlay, Department of Corrections, payable from the 1986 Prison Construction Fund..... 2,000,000

Provisions:

1. From funds appropriated in this item, $2,000,000 shall be used to fund new and expanded site studies for at least seven potential sites for a prison in Los Angeles County, including, but not limited to, sites specified by Chapter 165 of the Statutes of 1987, as backup sites to the preliminary sites specified in Chapter 165 of the Statutes of 1987. In addition, from these funds the department shall conduct an environmental impact report on potential sites within Los Angeles County.
2. Of the $2,000,000 designated for site studies in Provision 1, up to $200,000 shall be transferred to the Auditor General, who shall contract with a private consultant to work with the department and evaluate the department's site studies. The department and the Auditor General shall provide the results of these studies to the Legislature not not later than June 1, 1991.

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5240-311-751—For capital outlay, Department of Corrections, payable from the 1990 Prison Construction Fund..... 15,000,000

Provisions:

1. It is the intent of the Legislature that the amounts appropriated by this item shall be used for planning, construction, renovation, or remodeling by, or under the supervision of, the Department of Corrections, of community-based facilities for programs designed to reduce drug use and recidivism, including, but not limited to, restitution centers, facilities for the incarceration and rehabilitation of drug offenders, multipurpose correctional centers and centers for intensive programs for parolees.
2. These funds shall not be expended until legislation authorizing the establishment of the programs specified in Provision 1 is chaptered.
3. If after three years from the effective date of this act, the Legislature finds that the Department of Corrections has made a good faith effort to site community-based facilities, but funds designated for these community-based facilities are unexpended, the Legislature may appropriate these funds for other Level I housing.

5240-490—Reappropriation, Department of Corrections. The balances of the appropriations provided in the following citations are reappropriated for the purposes (and subject to the limitations unless otherwise specified) provided for in the appropriations:

Schedule:

724—1984 Prison Construction Fund

(1) Item 5240-301-724(1), Budget Act of 1988, 61.08.514-California Institution for Men: Hospital Licensure—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.

(2) Item 5240-301-724(7), Budget Act of 1986, 61.04.201-California Correctional Institution: Brine Ponds—Preliminary plans, working drawings and construction as reappropriated by Item 5240-490, Budget Acts of 1988 and 1989.

746—1986 Prison Construction Fund

(4) Item 5240-301-746(3), Budget Act of 1988, 61.15.410-California Rehabilitation Center: New Domestic Water System—Preliminary

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	plans and working drawings, as reappropriated by Item 5240-490, Budget Act of 1989.	
747—1988 Prison Construction Fund		
(5)	Item 5240-301-747(2), Budget Act of 1989, 61.05.360-Correctional Training Facility, Soledad: Replace Primary and Secondary Electrical Distribution System—Construction.	
(6)	Item 5240-301-747(5), Budget Act of 1989, 61.05.503-Correctional Training Facility, Soledad: Gymnasium Building, South Facility—Preliminary plans and working drawings.	
(7)	Item 5240-301-747(12), Budget Act of 1989, 61.08.519-California Institution for Men, Chino: Install Yard Lights, Minimum Facility—Preliminary plans, working drawings, and construction.	
(8)	Item 5240-301-747(15), Budget Act of 1989, 61.13.508-California Institution for Women, Frontera: Install Light Standards—Preliminary plans and working drawings.	
(9)	Item 5240-301-747(16), Budget Act of 1989, 61.13.510-California Institution for Women, Frontera: Replace Existing Brine Pond Waste Disposal System—Preliminary plans, working drawings, and construction.	
(10)	Item 5240-311-747(2), Budget Act of 1989, 61.01.501-Emergency Modifications to Accommodate Overcrowding, Phase II.	
(11)	Item 5240-301-747(2), Budget Act of 1988, 61.03.200-California Correctional Center, Susanville: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	
(12)	Item 5240-301-747(3), Budget Act of 1988, 61.04.200-California Correctional Institution, Tehachapi: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	
(13)	Item 5240-301-747(5), Budget Act of 1988, 61.05.200-Correctional Training Facility: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	
(14)	Item 5240-301-747(6), Budget Act of 1988, 61.05.360-Correctional Training Facility: Replace Primary and Secondary Electrical Distribution System—Preliminary plans and	

Item		Amount
	working drawings, as reappropriated by Item 5240-490, Budget Act of 1989.	
(15)	Item 5240-301-747(10), Budget Act of 1988, 61.06.200-Deuel Vocational Institution: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	
(16)	Item 5240-301-747(12), Budget Act of 1988, 61.07.200-California State Prison, Folsom: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	
(17)	Item 5240-301-747(15), Budget Act of 1988, 61.08.200-California Institution for Men: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	
(18)	Item 5240-301-747(19), Budget Act of 1988, 61.09.200-California Medical Facility: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	
(19)	Item 5240-301-747(20), Budget Act of 1988, 61.10.400-California Men's Colony: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	
(20)	Item 4250-301-747(23), Budget Act of 1988, 61.12.400-San Quentin State Prison: Emergency Electrical System Improvements—Construction as reappropriated by Item 5240-490, Budget Act of 1989.	
(21)	Item 5240-301-747(24), Budget Act of 1988, 61.13.200-California Institution for Women: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	
(22)	Item 5240-301-747(26), Budget Act of 1988, 61.15.200-California Rehabilitation Center, Norco: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	
(23)	Item 5240-301-747(28), Budget Act of 1988, 61.16.200-Sierra Conservation Center, Jamestown: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Act of 1989.	

Item		Amount
	Provisions:	
	1. Notwithstanding any other provision of law, the balances of appropriations for reappropriation that are scheduled as numbers 12, 13, 16, 17, 19, and 22 in this item shall be limited to the following:	
	(12) Item 5240-301-747(3), Budget Act of 1988, 61.04.200-California Correctional Institution, Tehachapi: Emergency Electrical System Improvements—Construction.....	263,000
	(13) Item 5240-301-747(5), Budget Act of 1988, 61.05.200-Correctional Training Facility: Emergency Electrical System Improvements—Construction.....	1,211,000
	(16) Item 5240-301-747(12), Budget Act of 1988, 61.07.200-California State Prison, Folsom: Emergency Electrical System Improvements—Construction.....	611,000
	(17) Item 5240-301-747(15), Budget Act of 1988, 61.08.200-California Institution for Men: Emergency Electrical System Improvements—Construction.....	196,000
	(19) Item 5240-301-747(20), Budget Act of 1988, 61.10.400-California Men's Colony: Emergency Electrical System Improvements—Construction.....	771,000
	(22) Item 5240-301-747(26), Budget Act of 1988, 61.15.200-California Rehabilitation Center, Norco: Emergency Electrical System Improvements—Construction.....	668,000
5240-491	—Reappropriation, Department of Corrections. The balances of the appropriations provided in the following citations are reappropriated for the purposes (and subject to the limitations unless otherwise specified) provided for in the appropriations:	
	Schedule:	
	746—1986 Prison Construction Fund	
	(1) Item 5240-301-746(1), Budget Act of 1987, 61.01.017-McCain Valley Conservation and	

Item Amount

Maintenance Camp—Acquisition, preliminary plans, working drawings, and construction.

5240-495—Reversion, Department of Corrections. As of June 30, 1990, the unencumbered balance of the appropriation provided in the following citation, as specified in this item, shall revert to the unappropriated surplus of the General Fund:

001—General Fund

(1) Chapter 922, Statutes of 1985..... 557,000

5240-496—Reversion, Department of Corrections. The following appropriation shall be reverted to the unappropriated surplus of the 1988 Prison Construction Fund:

Schedule:

(1) Item 5240-301-747(3), Budget Act of 1989, 61.05.405-Correctional Training Facility, Soledad: Replace Cell Doors and Locks, North Facility—Working drawings and construction, $4,939,000

5240-497—Reversion, Department of Corrections. As of June 30, 1990, the unencumbered balances of the appropriation provided in the following citation, as specified in this item, shall revert to the unappropriated balance of the fund from which the appropriation was made:

Schedule:

747—1988 Prison Construction Fund

(1) Chapter 1479, Section 3(c)(2) Statutes of 1988, 61.21.014-California State Prison-Los Angeles: 2,000 Bed Prison with 200 Bed Service Facility—Acquisition, site studies and suitability reports, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead and equipment items.

724—1984 Prison Construction Fund

(2) Chapter 165, Section 5(a)(1), Statutes of 1987, 61.20.010-California Reception Center-Los Angeles: 1,250 Bed Reception Center with 200 Bed Service Center Facility—Acquisition, site studies and suitability reports, environmental impact reports, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead and equipment items.

Item		Amount
746—1986 Prison Construction Fund		
(3) Chapter 1479, Section 3(c)(1), Statutes of 1988, 61.21.014-California State Prison-Los Angeles: 2,000 Bed Prison with 200 Bed Service Facility —Acquisition, site studies and suitability reports, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead and equipment items.		
(4) Chapter 165, Section, Statutes of 1987, 61.20.009-California Reception Center-Los Angeles: 1,250 Bed Reception Center with 200 Bed Service Facility—Acquisition, site studies and suitability reports, environmental impact reports, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead, and equipment items.		
(5) Chapter 165, Section 5(a)(2), Statutes of 1987, 61.20.011-California Reception Center-Los Angeles: 1,250 Bed Reception Center with 200 Bed Service Facility—Acquisition, site studies and suitability reports, environmental impact reports, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead and equipment items.		
(6) Chapter 165, Section 7(a), Statutes of 1987, 61.21.013-California State Prison-Los Angeles —Acquisition, site studies and suitability reports, environmental impact		
5430-001-001—For support of the Board of Corrections		556,000
Schedule:		
(a) 11-Standards for Detention Facilities	814,000	
(b) 12-County Jail Construction Financing Program	1,888,000	
(c) 21-Standards and Training for Local Officers	1,917,000	
(d) Program 31.01-Administration	244,000	
(e) Program 31.02-Distributed Administration	−244,000	
(f) Amount payable from the Corrections Training Fund (Item 5430-001-170)	−1,917,000	

Item		Amount
(g) Amount payable from the County Jail Capital Expenditure Fund, Bond Act of 1988 (Item 5430-001-796)	−430,000	
(h) Amount payable from the County Correctional Facility Capital Expenditure Fund, Bond Act of 1986 (Item 5430-001-711)	−1,716,000	
5430-001-170—For support of the Board of Corrections, for payment to Item 5430-001-001, payable from Corrections Training Fund		1,917,000
5430-001-711—For support of the Board of Corrections, for payment to Item 5430-001-001, payable from the County Correctional Facility Capital Expenditure Fund, Bond Act of 1986		1,716,000
5430-001-796—For support of the Board of Corrections, for payment to Item 5430-001-001, payable from the County Jail Capital Expenditure Fund, Bond Act of 1988		430,000
5430-101-170—For local assistance, Board of Corrections, Program 21—Standards and Training for Local Officers, payable from Corrections Training Fund		14,274,000
5430-490—Reappropriation, Board of Corrections. Notwithstanding any other provision of law, the balance, as of June 30, 1990, of the appropriation provided in the following citation is reappropriated for the completion of the hardware and software analysis for the Corrections Management Information System (CMIS):		
711—County Correctional Facility Capital Expenditure, Bond Act of 1986.		
(1) Item 5430-001-711, Budget Act of 1989, not to exceed $70,000.		
5440-001-001—For support of the Board of Prison Terms, Program 10		13,392,000
5450-001-001—For support of the Youthful Offender Parole Board, Program 10		3,445,000
5460-001-001—For support of the Department of the Youth Authority		294,971,000
Schedule:		
(a) 10-Prevention and Community Corrections	4,824,000	
(b) 20-Institutions and Camps	273,951,000	
(c) 30-Parole Services	37,829,000	
(d) 50.01-Administration	17,011,000	
(e) 50.02-Distributed Administration	−16,786,000	

Item		Amount
(f) Reimbursements		−18,890,000
(g) Amount payable from the 1986 Prison Construction Fund (Item 5460-001-746)		−147,000
(i) Amount payable from the 1990 Prison Construction Fund (Item 5460-001-751)		−299,000
(j) Amount payable from the County Correctional Facility Capital Expenditure Bond Act of 1988 (Item 5460-001-796)		−327,000
(k) Amount payable from the State Lottery Education Fund (Item 5460-001-831)		−1,201,000
(*l*) Amount payable from the Federal Trust Fund (Item 5460–001–890).		−1,141,000

Provisions:

1. Of the amount appropriated in Schedule (b), $1,327,000, plus amounts required for employee compensation increases, shall be available for payment to the Department of Forestry and Fire Protection, Item 3540-001-001. The payment shall be sufficient for the support of newly activated conservation camps during the 1990–91 fiscal year. Funds not used for this specific purpose shall revert to the General Fund.
2. Of the amount appropriated in Schedule (b), $31,000 is provided for payment of energy service contracts in connection with the issuance of Public Works Board Energy Efficiency Revenue Bonds (State Pool Program), Series 1986A.
3. The Department of the Youth Authority shall pursue federal funds to the extent possible to support increased substance abuse programs for wards and parolees.
4. Of the additional federal funds that are provided for this item pursuant to Item 8100-101-890, $500,000 shall be used for ward substance abuse programs consistent with the department's substance abuse program plan.

5460-001-751—For support of the Department of the Youth Authority, for payment to Item 5460-001-001, payable from the 1990 Prison Construction Fund 299,000

Item		Amount
5460-001-796—For support of the Department of the Youth Authority, for payment to Item 5460-001-001, payable from the 1988 County Correctional Facility Capital Expenditure Fund		327,000
5460-001-831—For support of the Department of the Youth Authority, for payment to Item 5460-001-001, payable from the California State Lottery Education Fund—California Youth Authority		1,201,000
Provisions:		
1. All funds received pursuant to Proposition 37 that are allocable to the Department of the Youth Authority pursuant to Section 8880.5 of the Government Code and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item. Such additional funds may be expended only upon written approval of the Department of Finance.		
5460-001-890—For support of the Department of the Youth Authority, for payment to Item 5460-001-001, payable from the Federal Trust Fund		1,141,000
5460-011-001—For support of the Department of the Youth Authority (Proposition 98)		28,408,000
Schedule:		
(b) 20—Institutions and Camps	28,408,000	
5460-101-001—For local assistance, Department of the Youth Authority		73,905,000
Schedule:		
(a) 10-Prevention and Community Corrections	70,105,000	
(b) 20-Institutions and Camps	95,000	
(c) 30-Parole Services	3,705,000	
Provisions:		
1. Of the amount appropriated within Schedule (a), $2,307,000 is available to contract with public or private agencies engaged in prevention of delinquency, as authorized by Article 5.5 (commencing with Section 1790) and Article 10 (commencing with Section 1900) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code, Department of the Youth Authority.		
2. Of the amount appropriated within Schedule (b), $95,000 is available to pay the transportation costs of persons committed to the Department of the Youth Authority to or between its facilities, including the return of parole violators; provided, that expenditures made under this		

Item		Amount

item shall be charged to either the fiscal year in which the claim is received by the State Controller or the fiscal year in which the warrant is issued by the State Controller. However, claims shall be filed by local jurisdictions within six months after the end of the month in which the costs are incurred.

3. Of the amount appropriated within Schedule (c), $3,705,000 is available to reimburse counties for the cost of the detention of Youth Authority parolees, who are detained on alleged parole violations, pursuant to Section 1776 of the Welfare and Institutions Code, provided, that expenditures made under this item shall be charged to either the fiscal year in which the claim is received by the State Controller or the fiscal year in which the warrant is issued by the State Controller. However, claims shall be filed by local jurisdictions within six months after the end of the month in which the costs are incurred.
4. Of the amount appropriated within Schedule (a), $67,298,000 is provided to support the County Justice System Subvention Program in accordance with Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code. Notwithstanding any other provision of law, any county receiving funds from the County Justice System Subvention Program shall use those funds in the 1990–91 fiscal year for the purposes specified in Section 1806 of the Welfare and Institutions Code.

5460-301-751—For capital outlay, Department of the Youth Authority, payable from the 1990 Prison Construction Fund		10,086,000
Schedule:		
(1) 60.01.035-Statewide: Budget Packages and Advance Planning	100,000	
(2) 60.26.015-Northern California Youth Center: Convert Laundry to Free Venture—Construction	306,000	
(3) 60.26.025-Northern California Youth Center: New Staff Training Center—Working drawings and construction	5,478,000	

Item	Amount
(4) 60.52.035-El Paso de Robles School: Expand Kitchen and Dining Area—Preliminary plans, working drawings and construction	455,000
(5) 60.54.040-Fred C. Nelles School: New Infirmary—Preliminary plans and working drawings	116,000
(6) 60.67.030-Youth Training School: Water Supply System—Working drawings and construction	661,000
(7) 60.90.010-Minor Projects	2,970,000

Provisions:

1. The funds appropriated in Schedule (1) shall be allocated by the Department of the Youth Authority, upon approval of the Department of Finance, to develop design and cost information for new projects for which funds have not been previously appropriated, but for which preliminary plan funds, working drawing funds, or working drawing and construction funds are expected to be included in the 1991–92 Governor's Budget, and for which cost estimates and/or preliminary plans can be developed prior to legislative hearings on the 1991–92 budget. These funds may be used for the following: budget package development, architectural programming, engineering assessments, schematic design, and preliminary plans. The amount appropriated in this item for these purposes shall not be construed as a commitment by the Legislature as to the amount of capital outlay funds it shall appropriate in any future year.

5460-495—Reversion, Department of the Youth Authority. As of June 30, 1990, the unencumbered balance of the appropriation provided in the following citation, as specified in this item, shall revert to the unappropriated surplus of the General Fund:

001—General Fund

(1) Chapter 922, Statutes of 1985	13,000

5770-001-001—For support of the Robert Presley Institute of Corrections Research and Training, Program 10 424,000

Item		Amount
	EDUCATION	
6110-001-001—For support of Department of Education		49,903,000
Schedule:		
(a) 10-Instruction	41,557,000	
(b) 20-Instructional Support	36,566,000	
(c) 30-Special Programs	18,003,714	
(d) 41.00-Executive Management and Special Services	8,529,000	
(e) 42.01-Department Management and Special Services	29,962,000	
(f) 42.02-Distributed Department Management and Special Services	−29,962,000	
(g) Reimbursements	−8,509,714	
(h) Amount payable from Federal Trust Fund (Item 6110-001-890)	−46,243,000	

Provisions:

1. Of the funds appropriated in this item, $80,400 shall be utilized solely for California's participation in the Education Commission of the States.
2. Of the funds appropriated in Schedule (a) of this item, $596,000 is for transfer to the California State Summer School for the Arts, Item 6255-001-001. This transfer is in lieu of the allocation provided by Chapter 1515, Statutes of 1988.
3. Of the funds appropriated in this item, an amount of not less than $92,000 shall be available only for reimbursement of in-state travel expenses of the State Board of Education.
4. Of the funds appropriated in this item, $38,000 shall be available for departmental administrative costs in implementing the Year-Round Schools Demonstration Program known as the Orchard Plan.
5. Of the amount appropriated in this item, $3,539,485 shall be available for the payment of an existing federal audit exception related to the unemployment insurance rates assessed against federally supported salaries in school districts.
6. (a) Of the amount appropriated in this item, $250,000 shall be available for the development of models for the restructuring of the 12 largest and 100 smallest public school districts. The models shall be jointly developed

Item	Amount

by the Superintendent of Public Instruction and the State Board of Education. Every model shall pay particular attention to the racial diversity of California's public school population, and the attendant values of racial balance, equality of opportunity, and developing multicultural sensitivity. The models shall be developed and adopted in consultation with the parties most affected: students, parents, teachers (including their organizations), trustees, administrators, and community leaders (including communities of color).

(b) The models shall also address the following key pedagogical questions: (1) Who will be the learners (recognizing California's multiracial population)? (2) What is to be learned (in order to become an educated person for the 21st century)? and (3) What is the latest knowledge regarding human learning and its facilitation by human and/or technological methodologies?

(c) The models shall also address schoolsite organization and management, personnel policies, school district funding, distribution of real property, distribution of other property, costs of transition, and whether there is an optimal size for a school district.

7. Notwithstanding Sections 33190 and 51219 of the Education Code, or any other provision of law, the State Department of Education shall expend no funds to prepare (a) a statewide summary of student performance on school district proficiency assessments or (b) a compilation of information on private schools with five or fewer students.

8. Of the amount appropriated in this item, $74,000 shall be expended for staff in the department's Program Evaluation and Research Division to (a) review and approve studies and program evaluations and (b) assist in contract management.

10. Notwithstanding any other provision of law, the State Controller and State Department of Education are hereby directed to disregard the receivable owed to the State Department of Education by the California State Summer

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School for the Arts in the amount of $190,000.	
11. Of the amount appropriated in this item, $62,000 shall be used for the completion of the evaluation of the Alternative Education and Work Centers and the Educational Clinics, as required by Chapter 1431 of the Statutes of 1985, and $40,000 shall be used for a review of the Early Intervention for School Success Program, in order to compare its cost effectiveness to other programs with similar goals. A report on the review of the Early Intervention for School Success Program shall be submitted to the Joint Legislative Budget Committee by March 15, 1991. Funds for both studies shall be expended in lieu of an examination of the Mentor Teacher Program.	
6110-001-178—For support of the Department of Education, Program 20.30—Instructional Support, for the purpose of conducting schoolbus driver instructor training as provided in Section 40070 of the Education Code, payable from the Driver Training Penalty Assessment Fund.....	903,000
6110-001-231—For support of the Department of Education, Program 20.10.045—Health and Physical Education, to implement a Tobacco Use Prevention Program, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund.....	900,000
6110-001-305—For support of Department of Education, Program 30.30—Postsecondary Education, payable from the Private Postsecondary Education Administration Fund	1,381,000
Provisions:	
1. Funds provided by this item are for support of the Private Postsecondary Education Division and the Private Postsecondary Education Council pursuant to Chapter 791, Statutes of 1981.	
2. The Private Postsecondary Education Division of the California Department of Education shall give high priority to a school of acupuncture which has submitted a complete application for approval under Section 94310.2 of the Education Code, provided that the application is submitted in a manner and on a form prescribed by the Superintendent of Public Instruction, or his designee, to ensure that the school shall be reviewed in accordance with the September 1, 1990, dead-	

Item Amount

line required by subdivision (b) of Section 4939 of the Business and Professions Code.

3. Upon receipt of a written request from the Superintendent of Public Instruction and the Council for Private Postsecondary and Vocational Education, the Department of Finance, with 30-day notice to the Chairperson of the Joint Legislative Budget Committee, may transfer expenditure authority from Item 6880-001-305 to Item 6110-001-305. After December 31, 1990, and upon determination that all obligations of the Private Postsecondary Education Division (PPED) in the Department of Education have been met, the Department of Finance may transfer expenditure authority not used by PPED and remaining in Item 6110-001-305 to Item 6880-001-305.
4. The fee schedule that shall govern the fees paid by private postsecondary educational institutions and persons as required under Section 94331 of the Education Code, shall be the fee schedule that is currently in effect at the Private Postsecondary Education Division of the State Department of Education. However, no current fee shall be less than that which was charged for the same activity by the Private Postsecondary Education Division of the State Department of Education on December 31, 1989. In addition, the annual renewal fee for "an institution of an administrative family" shall be two hundred dollars ($200).

6110-001-344—For support of Department of Education, Program 20.30 Administrative Services to local educational agencies, payable from the State School Building Lease-Purchase Fund 1,362,000

Provisions:

1. Funds appropriated by this item are for support of the activities of the School Facilities Planning Division and are to be used exclusively for activities authorized by statute or memorandum of understanding between the Department of Education and the Department of General Services, Office of Local Assistance, which are related to local school construction, reconstruction, rehabilitation, modernization, maintenance, deferred maintenance, year-round school programs, and schoolsite acquisition.

Item	Amount
6110-001-687—For support of Department of Education, for the California State Agency for Donated Food Distribution, Program 30.50—Food Distribution, payable from the Donated Food Revolving Fund	13,386,000
6110-001-890—For support of Department of Education, for payment to Item 6110-001-001, payable from the Federal Trust Fund	46,243,000

Provisions:

1. Of the funds appropriated in this item, $1,319,000 of the 1990–91 Federal Vocational Education Act funds shall be transferred to the community colleges by means of interagency agreements. These funds shall be used by the community colleges for the administration of vocational education programs.
2. Of the funds appropriated in this item, $47,500 is available to the Advisory Commission on Special Education for the in-state travel expenses of the commissioners and the secretary to the commission.
3. Of the funds appropriated in this item, $470,000 is available for programs for homeless youth and adults pursuant to the federal Stewart B. McKinney Act. The department shall participate on the Health and Welfare Agency Homeless Task Force and shall consult with the Departments of Economic Opportunity, Mental Health, Housing and Community Development, and Economic Development in operating this program.
4. Of the funds appropriated in this item, $200,000 shall be for the New Chance Demonstration Program, established pursuant to Chapter 931, Statutes of 1989.
5. Upon receipt of a written request from the Superintendent of Public Instruction and the Council for Private Postsecondary and Vocational Education, the Department of Finance, with 30 days' notice to the Chairperson of the Joint Legislative Budget Committee, may transfer expenditure authority from Item 6880-001-890 to Item 6110-001-890. After December 31, 1990, upon determination that all obligations of the Private Postsecondary Education Division (PPED) in the State Department of Education have been met, the Department of Finance may

Item		Amount

transfer expenditure authority not used by PPED and remaining in Item 6110-001-890 to Item 6880-001-890.

6. Of the funds appropriated in this item, the State Department of Education (SDE) shall use a minimum of $500,000 for it to contract for a longitudinal evaluation to assess the effectiveness of local drug and alcohol abuse education and prevention programs. The evaluation shall primarily compare the cost effectiveness of (1) various programs targeted to high-risk youth with one another, and (2) school-based approaches with more comprehensive, community-based approaches. The evaluation may also evaluate various curricular approaches.

It is the intent of the Legislature that (1) the evaluation be conducted for a minimum of three years, (2) at least $500,000 in federal funds be appropriated annually for this purpose for the duration of the study, and (3) the study focus primarily on use outcome measures, including data on student use. The department shall establish an advisory committee to assist in the design of the evaluation and the selection of the contractor. The committee shall be composed of staff from the legislative fiscal committees and appropriate policy committees, the Legislative Analyst's Office, the Department of Finance, the Department of Alcohol and Drug Programs, the Office of Criminal Justice Planning, and other appropriate administrative agencies. The SDE shall obtain the written approval of the Legislative Analyst and the Department of Finance for the request for proposal prior to issuing it.

The SDE shall annually submit findings of the evaluation to the Legislature by January 1, beginning in 1992.

6110-005-001—For support of State Department of Education, as allocated by the State Department of Education to the State Special Schools, Program 10.60.040 29,572,000

Schedule:

(a) 10.60.040-Instruction 29,572,000

(1) 10.60.040.001-School for the Blind, Fremont 3,004,000

Item		Amount
(2) 10.60.040.002-School for the Deaf, Fremont.....	8,534,000	
(3) 10.60.040.003-School for the Deaf, Riverside....	7,533,000	
(4) 10.60.040.004-Diagnostic School for the Neurologically Handicapped, North.....	3,819,000	
(5) 10.60.040.005-Diagnostic School for the Neurologically Handicapped, South	3,341,000	
(6) 10.60.040.006-Diagnostic School for the Neurologically Handicapped, Central	3,341,000	

Provisions:

1. Of the amount appropriated in this item, $362,000 shall be available for the assessment centers at the State Special Schools.
2. The Director of Finance may, pursuant to a request from the Superintendent of Public Instruction, authorize an augmentation or reduction of the amount available for expenditure in this item by transfer from or to Item 6110-006-001 of this act. These transfers shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. These transfers shall not exceed, in any fiscal year, 10 percent of the amount available for expenditure in the affected appropriation.

6110-006-001—For support of Department of Education (Proposition 98), as allocated by the Department of Education to the State Special Schools, Program 10.60.040 15,070,000

Item			Amount
Schedule:			
(a) 10.60.040-Instruction			18,160,000
(1) 10.60.040.001-School for the Blind, Fremont	2,724,000		
(2) 10.60.040.002-School for the Deaf, Fremont	8,172,000		
(3) 10.60.040.003-School for the Deaf, Riverside	7,264,000		
(b) Reimbursements			−3,852,000
(c) Amount payable from the Lottery Education Fund (Item 6110-006-814)			−148,000
(d) Unallocated—Extended Session Programs			910,000

Provisions:

1. On or before January 15 of each year, the superintendent of each State Special School shall report to each district the number of pupils from that district who are attending a State Special School and the estimated payment due on behalf of the district for those pupils pursuant to Education Code Section 59300. The State Controller shall withhold from the State School Fund in the first principal apportionment of that fiscal year the amount due from each school district, as reported to the Controller by the Superintendent of Public Instruction. The amount withheld shall be transferred from the State School Fund to this item which supports the State Special Schools. The Superintendent of Public Instruction is authorized to adjust the estimated payments required after the close of the fiscal year by reporting to the State Controller the information needed to make the adjustment.
3. The funds appropriated in Schedule (d) of this item are to be used for the provision of a four-week extended session in the State Special Schools for the Deaf in Fremont and Riverside and the State Special School for the Blind in Fremont. The funds shall be allocated to the schools based on enrollment data. The funds may not be allocated without approval of the Department of Finance.

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4. The Director of Finance may, pursuant to a request from the Superintendent of Public Instruction, authorize an augmentation or reduction of the amount available for expenditure in this item by transfer from or to Item 6110-005-001 of this act. These transfers shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. These transfers shall not exceed, in any fiscal year, 10 percent of the amount available for expenditure in the affected appropriation.

6110-006-814—For support of Department of Education, for payment to Item 6110-006-001, payable from the Lottery Education Fund 148,000

Provisions:

1. All funds received pursuant to Proposition 37 that are allocable to the State Special Schools pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item.

6110-008-001—For support of Department of Education, as allocated by the Department of Education to the State Special Schools for student transportation allowances, Program 10.60.040 436,000

Provisions:

1. Funds appropriated in this item are in lieu of funds which would otherwise be transferred from the General Fund to Section A of the State School Fund in accordance with Sections 14007 and 41301.5 of the Education Code.

6110-015-001—For support of Department of Education instructional materials warehousing and shipping costs, Program 20.20.020—Instructional Materials Management and Distribution 402,000

Provisions:

1. Funds appropriated by this item are for transfer by the Controller, to the State Instructional Materials Fund, for allocation during the 1990–91 fiscal year, pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of

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Part 33 of the Education Code. These funds shall be transferred to the State Instructional Materials Fund by the Controller in amounts claimed by the Department of Education.		
2. Funds appropriated by this item for the Instructional Materials Management and Distribution Program shall be transferred for direct disbursement by the Department of Education from the State Instructional Materials Fund.		
6110-021-001—For support, Department of Education, Program 30.20—Child Nutrition		593,000
Provisions:		
1. The funds appropriated in this item are in lieu of the apportionment of funds specified in Section 41353 of the Education Code, for state administrative expenses related to nutrition education projects.		
6110-101-001—For local assistance, Department of Education (Proposition 98), Program 10.10—School Apportionments for transfer to Section A of the State School Fund		9,919,227,000
Schedule:		
(a) Program 10.10.001.001—School Apportionments, District Revenue Limit, for the purposes of Section 42238 of the Education Code	9,751,582,000	
(b) Program 10.10.001.002—School Apportionments, for Necessary Small Schools, in addition to the amount appropriated in category (a) of this item, for the purpose of subdivision (f) of Section 42238 of the Education Code	19,075,000	
(c) Program 10.10.001.004—School Apportionments, for Meals for Needy Pupils programs, for the purpose of Article 11 (commencing with Section 49550) of Chapter 9 of Part 27 of the Education Code	37,373,000	
(d) Program 10.10.001.005—School Apportionments, for apprentice programs, for the purposes of Section 8152 of the Education Code.	5,711,000	

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(e) Program 10.10.011—School Apportionments, for summer school programs, for the purposes of Section 42239 of the Education Code 105,486,000

Provisions:

1. Funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1990–91 fiscal year pursuant to Sections 14002, 14004, and 41301 of the Education Code, an amount as needed, in addition to sums accruing to Section A of the State School Fund from other sources for the purposes specified herein, for apportionment pursuant to Section 42238, Section 42239, and Sections 42240 and 42240.1 of the Education Code.
2. Notwithstanding Section 8154 of the Education Code, or any other provision of law, the funds specified in Schedule (d) of this item shall be the only funds available for and allocated by the Superintendent of Public Instruction for the apprentice programs operated by school districts and county offices of education.
3. Notwithstanding Section 8152 of the Education Code, each 60-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of $4.05 per hour. For purposes of this division, each hour of teaching time may include up to 10 minutes for passing time and breaks.
4. No school district or county office of education shall use funds available under Schedule (d) to offer any new or expanded apprentice program(s) unless that program(s) has been approved by the Superintendent of Public Instruction.
5. The Superintendent of Public Instruction shall report to the Department of Finance and the Legislature no later than October 1, 1990, on the amount of funds expended for and the hours of related and supplemental instruction offered in the apprentice program during the 1989–90 fis-

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cal year, with information to be provided by school district, county office of education, program sponsor, and trade. Expenditure information shall distinguish between direct and indirect costs, including administrative costs funded for the Department of Education, school districts, and county offices of education. In addition, the report shall identify the hours of related and supplemental instruction proposed for the 1990–91 and 1991–92 fiscal years by school district, county office of education, program sponsor, and trade. As a condition of receiving funds for the apprenticeship program, K–12 school districts and county offices of education shall report to the Superintendent of Public Instruction the information necessary for the completion of this report.

6. Notwithstanding Article 8 (commencing with Section 8150) of Chapter 1 of Part 6 of the Education Code, or any other provision of law, the total number of hours eligible for reimbursement in apprentice programs operated by K–12 school districts and county offices of education shall be limited to an amount equal to the total appropriation specified in Schedule (d) of this item divided by the hourly rate specified in Provision 3. The Superintendent of Public Instruction shall have the authority to determine which apprentice programs, and which hours offered in such programs, are eligible for reimbursement.
7. Notwithstanding any other provision of law, the county superintendent shall reduce the total revenue limit computed pursuant to Section 42238 of the Education Code by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from the enactment of Chapter 330 of the Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates, excluding rate changes due to the direct transfer of the state-mandated portion of the employer contributions to the Public Employees' Retirement System, through the 1990–91 fiscal year.

   The reduction shall be calculated as follows:

   (a) Determine the amount of employer contri-

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butions which would have been made in the 1990–91 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1990–91 fiscal year.

For purposes of this calculation, no school district shall have a contribution rate higher than 13.020 percent.

(b) Subtract from the amount determined in subdivision (a) the actual amount of employer contributions made to the Public Employees' Retirement System in the 1990–91 fiscal year.

(c) For the purposes of this provision, employer contributions to the Public Employees' Retirement System for any of the following positions shall be excluded from the calculation specified above:

(1) Positions supported totally by federal funds which are subject to supplanting restrictions.

(2) Positions supported by funds received pursuant to Section 42243.6 of the Education Code.

(3) Positions supported, to the extent of employer contributions not exceeding $25,000 by any single educational agency, from a revenue source determined on the basis of equity to be properly excludable from this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(d) For accounting purposes, the reduction made by this provision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

It is the intent of the Legislature to make adjustments to school district revenue limits for the 1990–91 fiscal year to reflect savings that these districts will realize in the contributions to the Public Employees' Retirement System due to a reduced contribution rate for the 1990–91 fiscal year.

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8.	(a) Notwithstanding paragraph (2) of subdivision (d) of Section 42239 of the Education Code, or any other provision of the law, for the 1990–91 fiscal year a school district's maximum entitlement for pupil attendance in summer school programs offered pursuant to paragraph (2) of subdivision (d) of Section 42239 of the Education Code shall be an amount equal to 7 percent of the district's enrollment for the prior year, times 120 hours, times the hourly rate for the 1990–91 fiscal year determined pursuant to subdivision (c) of Section 42239 of the Education Code.	
	(b) Notwithstanding paragraph (2) of subdivision (d) of Section 42239 of the Education Code, or any other provision of the law, the Superintendent of Public Instruction shall reallocate to any school district any unexpended balance of the appropriations made for the 1990–91 fiscal year for reimbursement for actual pupil attendance in summer school programs authorized under paragraph (2) of subdivision (d) of Section 42239 of the Education Code. In no event shall any district receive reimbursement for pupil attendance in summer school programs in excess of 10 percent of the district's enrollment for the prior year, times 120 hours, times the hourly rate for the 1990–91 fiscal year determined pursuant to subdivision (c) of Section 42239 of the Education Code.	
	(c) Of the funds received pursuant to subdivisions (a) and (b) of this provision, priority shall be given to providing classes for students who have failed any core curriculum course, or who have accumulated fewer course credits toward graduation than the average student of equivalent age or grade level as determined by the local governing board. Funds also shall be provided to help students meet college entrance requirements.	
	(d) As a condition of receiving funds pursuant to subdivisions (a) and (b), the county superintendent shall report to the Superin-	

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tendent of Public Instruction on or before November 15, 1990, the number of students who attended each class and the number and type of classes conducted.

(e) Notwithstanding subdivision (e) of Section 42239 of the Education Code, for the 1990–91 fiscal year, the Superintendent of Public Instruction shall allocate a minimum of $5,974 for supplemental summer school programs in those districts whose prior year enrollment was less than 500 and that, in the 1990–91 fiscal year, offer at least 1,500 hours of supplemental summer school instruction. A small school district, as defined above, that offers less than 1,500 hours of supplemental summer school offerings shall receive a proportionate reduction in its allocation. For the purpose of this provision, supplemental summer school programs shall be defined as programs authorized under paragraph (2) of subdivision (d) of Section 42239 of the Education Code.

9. For federal audit actions which became final by entry of judgment or final administrative decision on or after July 1, 1987, and which required repayment of funds to the federal government by the State Department of Education for federal audit exceptions based on findings in any school district or any other agency receiving such federal funds through the State Department of Education, the amount of such repayments, with interest due the federal government, may be deducted from the apportionment made to those districts or agencies by the Superintendent of Public Instruction from the funds appropriated by this item. The amount which is repaid to the state under the provisions of Section 459 of the General Education Provisions Act (20 U.S.C. 1234h) shall be apportioned to the district in accordance with any grantback plan submitted by the district and the State Department of Education and approved by the United States Department of Education.

10. Notwithstanding subdivision (b) of Section 46200 of the Education Code, for any school district which received an apportionment pursu-

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ant to subdivision (a) of Section 46200 of the Education Code and which offers less than 180 days of instruction in the 1990–91 fiscal year and has not met the waiver provisions pursuant to Chapter 782, Statutes of 1989, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for 1990–91 by an amount attributable to the increase received pursuant to subdivision (a) of Section 46200, as adjusted by subsequent inflation adjustments and increases in ADA.

11. Notwithstanding any other provision of law, for the purpose of calculating entitlements for revenue limit apportionments, the Superintendent of Public Instruction shall increase the number of units of average daily attendance (ADA) for the Victor Valley Union High School District by 300 units in the 1987–88 fiscal year only. In each of the fiscal years 1988–89 through 1992–93, the superintendent shall reduce the district's numbers of units of ADA by 60 units below the level that the district would otherwise be entitled to claim. It is the intent of the Legislature to assist the district in overcoming the severe impacts on its cash-flow of a reorganization election which reduced the district's ADA by 70 percent for the 1987–88 fiscal year. It is further the intent of the Legislature that such assistance be provided at no net cost to the state.

12. (a) At such time as the Superintendent of Public Instruction certifies principal apportionments for the year, the Controller shall transfer, from Schedule (a) of this item to Schedule (a) of Item 6110-111-001, an amount equal to transportation aid pursuant to Section 42240 for school districts choosing to reflect small school district transportation aid in their transportation budget appropriation.

    (b) The Director of Finance may approve any transfer authorized by this provision, provided that such transfer may not be authorized sooner than 30 days after the notification in writing of the necessity therefor to the chairperson of the committee in

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	each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.	
15.	Notwithstanding any other provision of law, a local school district shall be eligible to claim apportionments for K–12 pupils as concurrently enrolled in adult education in 1990–91 only to the extent of the previous year's ADA so claimed plus an increase not to exceed the percent of increase in ADA over the previous year for the district's regular ADA.	
17.	(a) The Legislature finds and declares that average daily attendance claimed for purposes of apportionments by school districts needs to be in compliance with current law.	
	(b) Recognizing the severe dislocation that could occur, school districts shall not be required to change existing practice in claiming average daily attendance for fiscal year 1990–91.	
	(c) The State Department of Education in consultation with staff of the legislative fiscal and policy committees, the Department of Finance, the Legislative Analyst's Office, and school district attendance accounting and business officers, shall develop recommendations on the most cost-effective means of confirming pupils' attendance in school for at least the minimum day. A report of these recommendations shall be submitted to the Joint Legislative Budget Committee and the Director of the Department of Finance on or before December 1, 1990.	
	(d) The recommendations contained in the report required in paragraph (c) shall be neutral with regard to the calculation of the Proposition 98 guarantee for K–14 education funding. This shall not preclude inclusion of recommendations that in isolation might have such an effect, as long as they are accompanied by other recommendations which in total would be neutral.	

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(e) For 1990–91, school districts shall include in the school accountability report card required under Section 35256 of the Education Code, a report of average daily attendance with respect to adherence to the minimum day requirements of statute.

(f) On or before August 1, 1990, the Superintendent of Public Instruction shall notify each school district of the report required in paragraph (c), and advise that the report will include recommendations which may require changes in accounting for, and claiming of, average daily attendance.

18. Of the funds appropriated in this item, $450,000 shall be allocated to Orange Unified School District, fulfilling the November 1989 Superior Court of the State of California settlement agreement, case number 47-94-93.

19. Notwithstanding any other provision of law, those allowances provided pursuant to Provision 18 of Item 6110-101-001 of the Budget Act of 1989 shall be funded pursuant to paragraph (1) of subdivision (b) of Section 46300.1 of the Education Code or at a rate funded during 1989–90, whichever is less.

20. Notwithstanding the conclusions expressed in Attorney General Opinion No. 89-202 or any provision of law to the contrary, the penalties and interest on property tax redemptions received by school districts, county offices of education, and community college districts during the 1990–91 fiscal year shall be treated in the same manner for the purpose of determining the state aid portion of school apportionment funding as the revenues were treated in the 1989–90 fiscal year.

21. Notwithstanding any other provision of law, no school district may receive apportionments from this item for pupils 19 years or older in K–12 independent study programs for average daily attendance in excess of the amount generated by these pupils in the 1988–89 fiscal year or, if the district received no apportionments for these pupils' average daily attendance in the 1988–89, then in the 1987–88 fiscal year. This limitation shall not apply to pupils who

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have been continuously enrolled in a K–12 program since their 18th birthday.

22. Notwithstanding any other provision of law, of the funds appropriated in this item, $7,300,000 shall be available for allocation to school districts for declining enrollment by the same formula used for the 1989–90 fiscal year pursuant to Section 42251 of the Education Code, but modified as appropriate to operate for 1990–91 fiscal year.
23. Notwithstanding any other provision of law, for a high school district which has had declining enrollment for 4 consecutive years, including the 1990–91 fiscal year, and whose feeder elementary districts have each had increasing enrollments for at least 3 of the same 4 years, the Superintendent of Public Instruction may, in lieu of Section 42238.5 of the Education Code, determine the number of units of average daily attendance of the high school district for the 1990–91 fiscal year by averaging the number of units of average daily attendance for the current year and the preceding 3 years. to this provision.
24. In lieu of the adjustment provided pursuant to paragraph (1) of subdivision (b) of Section 46300.1 of the Education Code, the allowance for districts eligible for funding pursuant to Section 42284 of the Education Code shall be reduced by 33 percent of the statewide average level per unit of average daily attendance paid for pupils in adult education.
25. The State Department of Education shall work with the federal government and appropriate state agencies, including, but not limited to, the Department of Finance and the Controller's office, to determine if it is possible to allow districts with fewer than 1,001 average daily attendance to be excluded from the requirement of the J-380. If the State Department of Education, the Department of Finance, and the Controller each approve in writing an exemption based on districts complying with specified conditions, then, notwithstanding the provisions of Section 56730.5 of the Education Code, the State Department of Education may exempt the districts wishing to be exempted un-

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der conditions required by the federal government and the state agencies.

26. Any district qualifying for apportionments pursuant to subdivision (b) of Section 42281 of the Education Code in the 1989–90 fiscal year shall be eligible for funding pursuant to the same provision in the 1990–91 fiscal year if it would otherwise be eligible for apportionments pursuant to subdivision (a) of Section 42281 of the Education Code.
27. Districts eligible for apportionments pursuant to both provisions 22 and 23 of this item may receive apportionments for either provision, but may not receive apportionments for both provisions.

6110-101-814—For local assistance, Department of Education, Program 10.10, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5 as enacted by the voters in Proposition 37 at the November 1984 general election, payable from the California State Lottery Education Fund 834,861,000

Provisions:

1. All funds received pursuant to Proposition 37 that are allocable to K–12 local education agencies pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item.

6110-101-890—For local assistance, Department of Education, Federal Block Grant under Chapter 2 of the Education Consolidation and Improvement Act, payable from the Federal Trust Fund 40,232,000

Schedule:

(a) 10-Instruction 38,778,000
(b) 20-Instructional support 1,454,000

Provisions:

1. Of the funds appropriated by this item, $300,000 shall be allocated as a grant by the Superintendent of Public Instruction to a private, nonprofit foundation for the purpose of conducting a program on youth and the administration of justice in at least 150 school districts. These funds shall be allocated in four equal installments during the 1990–91 fiscal year on September 1, December 1, February 1, and May 1.

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6110-102-001—For local assistance, Department of Education (Proposition 98), Program 10.10.004—School Apportionments, Regional Occupational Centers and Programs, for transfer to Section A of the State School Fund for the purposes of Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of the Education Code 233,700,000

Provisions:

1. Notwithstanding any provision of law to the contrary, the funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1990–91 fiscal year pursuant to Sections 14002 and 14004 of the Education Code, in an amount as needed for apportionment pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of the Education Code.
2. Funds appropriated in this item shall be apportioned by the Superintendent of Public Instruction pursuant to Article 1.5 (commencing with Section 52335) of Chapter 9 of Part 28 of the Education Code.
3. Because Chapter 482, Statutes of 1984 was chaptered after Chapter 268, Statutes of 1984, the Legislature's intent regarding the eligibility of Regional Occupational Centers and Programs for incentive funding for a longer instructional year under Section 46200 of the Education Code was not carried out. It is the intent of the Legislature that Regional Occupational Centers and Programs not be eligible for such incentive funding.

   Notwithstanding any other provision of law to the contrary, none of the funds appropriated in this item are for the purposes of providing or continuing incentive funding for a longer instructional year pursuant to Section 46200 of the Education Code.
4. Of the amount appropriated in this item, $3,140,000 shall be available for funding growth in allowable levels of average daily attendance.
5. Notwithstanding any other provision of law, funds appropriated in this item for average daily attendance (ADA) generated by participants in

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the Greater Avenues for Independence Program established by Chapter 1025 of the Statutes of 1985 may be apportioned on an advance basis to local education agencies based on expected units of ADA if a prior application for this additional ADA funding has been approved by the Superintendent of Public Instruction.

6110-106-001—For local assistance, Department of Education (Proposition 98), Program 10.10.005—County Offices of Education School Apportionment for transfer to Section A of the State School Fund, for the purposes of Sections 1909 and 2558 of the Education Code..... 131,228,000

Provisions:

1. Notwithstanding any provision of law to the contrary, the funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1990–91 fiscal year pursuant to Sections 14002 and 14004 of the Education Code, an amount as needed for apportionment pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2, of the Education Code, excluding amounts for Regional Occupational Centers and Programs operated by County Superintendents of Schools.
2. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and in subschedule (a) (6) of Item 6110-226-001 shall be the maximum amount allocated for the purposes of Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of the Education Code.
3. Notwithstanding any other provision of law, the county superintendent shall reduce the total revenue limit computed pursuant to Section 2558 of the Education Code by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from the enactment of Chapter 330, Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates, excluding rate changes due to the direct transfer of the state-

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mandated portion of the employer contributions to the Public Employees' Retirement System, through the 1990–91 fiscal year. The reduction shall be calculated as follows:

(a) Determine the amount of employer contributions which would have been made in the 1990–91 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect in 1984–85 were in effect during the 1990–91 fiscal year.

(b) Subtract from the amount determined in subdivision (a) the actual amount of employer contributions made to the Public Employees' Retirement System in the 1990–91 fiscal year.

(c) For the purposes of this provision, employer contributions to the Public Employees' Retirement System for any of the following positions shall be excluded from the calculation specified above:

(1) Positions supported totally by federal funds which are subject to supplanting restrictions.

(2) Positions supported by funds received pursuant to Section 42243.6 of the Education Code.

(3) Positions supported, to the extent of employer contributions not exceeding $25,000 by any single educational agency, from a revenue source determined on the basis of equity to be properly excludable from this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(d) For accounting purposes, the reduction made by this provision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

It is the intent of the Legislature to make adjustments to county office of education revenue limits for the 1990–91 fiscal year to reflect savings that these districts will realize in the contributions to the Public Employees' Retirement System due to a reduced contribution rate for

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the 1990–91 fiscal year.

8. It is the intent of the Legislature to adjust the revenue limits of the county offices of education in order to reflect savings that these agencies have realized in their contributions to the Public Employees' Retirement System due to reductions in the contribution rate due to the enactment of Chapter 330 of the Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates. It is the further intent of the Legislature that this adjustment be phased in over a three-year period, with the full amount of the adjustment to be incorporated in the revenue limits of the county offices of education in the 1991–92 fiscal year.
9. Notwithstanding any other provision of law, only those pupils enrolled in County Office of Education programs while detained in a juvenile hall, juvenile home, day center, juvenile ranch, juvenile camp or regional youth educational facility established pursuant to Article 14 (commencing with Section 850), Article 15 (commencing with Section 880) and Article 24.5 (commencing with Section 894) of Chapter 2 of Division 2 of the Welfare and Institutions Code shall be counted as Juvenile Court School pupils. For purposes of apportionment those pupils in any group home housing 25 or more children placed pursuant to Sections 362, 727, and 730 of the Welfare and Institutions Code or in any group home housing 25 or more children and operating one or more additional sites under a central administration for children placed pursuant to Section 362, 727 or 730 of the Welfare and Institutions Code shall be reported as County Group Home and Institutions pupils to the Superintendent of Public Instruction and shall be counted as Juvenile Court School pupils for purposes of apportionment.
10. Notwithstanding any other provision of law, any county superintendent of schools operating (i) juvenile court schools, (ii) county group homes, (iii) institutions' schools, or (iv) community schools, or any combination of (i) through (iv), shall maintain an account in their general fund, to be known as the juvenile court

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and community school account, and shall deposit all funds derived from the operation of juvenile court, county group home and institutions' schools, and community schools into that account. Expenditures from the juvenile court and community school account shall be limited to (1) those expenditures defined as direct costs of instructional programs by the California State School Accounting Manual; (2) expenditures which are defined as documented direct support costs by the California State School Accounting Manual, excepting that costs charged for probation officers shall be limited to not more than the number of full-time equivalent probation officers paid for by the county office of education during the 1988–89 fiscal year; (3) expenditures which are defined as allocated direct support costs by the California State School Accounting Manual; and (4) other expenditures for support and indirect charges, provided that these charges may not exceed 10 percent of the sum of the expenditures in (1), (2), and (3). Expenditures which represent contract payments to other agencies for the operation of juvenile court and community school programs shall be included in the juvenile court and community school account and the contract costs distributed to the cost categories defined in (1), (2), (3), and (4) above. At the end of any given school year the net ending balance in the juvenile court and community school account may be distributed to a reserved account for economic contingencies or to a reserved account for capital outlay, provided that the combined total transferred does not exceed 15 percent of the previous year's authorized expenditures as specified above and also provided that funds placed in the reserved accounts shall only be expended for juvenile court, county group home and institutions, and community school programs. The net ending balance, except for those funds placed in a capital outlay fund, shall not exceed 15 percent of the previous year's expenditures. A county may accumulate over a period of two or more given school years, a net ending balance in the capital outlay reserved account of	

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more than 15 percent of the previous fiscal year's expenditures, under provisions of a resolution of the governing board. Funds in the capital outlay reserve are to be used for capital outlay only. The Superintendent of Public Instruction shall require an annual certification by county superintendents of schools, beginning in the 1989–90 fiscal year, that juvenile court, county group home and institutions and community school funds have been expended as provided above and shall withhold from the subsequent year's apportionment an amount equal to any ending balance in the juvenile court and community school account in excess of the transfers to reserves for economic contingencies and capital outlay as described above.

11. Notwithstanding any other provision of law, only pupils, excepting those permitted pursuant to subdivision (a) and (b) of Section 1981 of the Education Code, who are referred by the county probation department under Section 601 or 654 of the Welfare and Institutions Code after an individualized review and certification of the appropriateness of enrollment in the county group home and institution's school or county community school, shall be enrolled in county community schools. The individualized review shall include representatives of the court, the county department of education, the county probation department, and either the school district of residence or, in cases in which the pupil resides in a group home or institution, the school district in which the group home or institution is located, and, in each case, the school district representative must agree to the appropriateness of the proposed placement and pupils so placed must have a probation officer or other appropriate designee of the probation department assigned to their case.
12. Notwithstanding Attorney General Opinion A.G. 39-202 or any provision of law to the contrary, the penalties and interest on property tax redemptions received by school districts, county offices of education, and community college districts during the 1990–91 fiscal year shall be treated in the same manner for the

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purpose of determining the state aid portion of school apportionment funding as those revenues were treated in the 1989–90 fiscal year.	
13. Notwithstanding any other provision of law, those allowances provided pursuant to Provision 10 of Item 6110-106-001 of the Budget Act of 1989 shall be funded pursuant to paragraph (1) of subdivision (b) of Section 46300.1 of the Education Code, or at the rate funded during 1989–90, whichever is less.	
6110-106-231—For local assistance, Department of Education, Program 20.10.045—Health and Physical Education Tobacco Use Prevention Program, for administration for County Offices of Education in accordance with Chapter 1.2 (commencing with Section 24160) of Division 20 of the Health and Safety Code, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund	2,500,000
6110-107-001—For local assistance, Department of Education (Proposition 98), Program 10.25—Class Size Reduction, for purposes of Chapters 6.8 (commencing with Section 52080) and 6.9 (commencing with Section 52100) of Part 28 of the Education Code	30,994,000
6110-108-001—For local assistance, Department of Education (Proposition 98), Program 20.80—Supplemental Grants for purposes of Article 9 (commencing with Section 54760) of Chapter 9 of Part 29 of the Education Code	180,000,000
Provisions:	
1. School districts shall not be required to maintain prior-year levels of local expenditures for those program purposes on which supplemental grants are spent as a condition of receiving these funds.	
6110-109-001—For local assistance, Department of Education (Proposition 98), Program 20.60.020.002—Tenth Grade Counseling Program, for the purposes of Section 48431.7 of the Education Code....	7,685,000
Provisions:	
1. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item shall be the maximum amount allocated for the purposes of Section 48431.7 of the Education Code.	

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6110-111-001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 10.10—School Apportionments		327,067,000
Schedule:		
(a) Program 10.10.006–School Apportionments, for the purposes of Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code	323,770,000	
(b) Program 10.10.008–School Apportionments, for the purposes of Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code	3,297,000	

Provisions:

1. Notwithstanding any provision of law to the contrary, the funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1990–91 fiscal year pursuant to Sections 14002 and 14004 of the Education Code, of an amount as needed for apportionment pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 and Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code.
2. Notwithstanding any provision of law to the contrary, the funds provided in category (a) of this item shall be the only funds provided for the purposes of Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code, and shall be apportioned to school districts and county superintendents of schools pursuant to Section 41851 of the Education Code.
3. Notwithstanding any other provision of law to the contrary, the amount appropriated in category (b) of this item shall be the maximum amount allocated for the purposes of Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code.
4. Notwithstanding any provision of law, growth funding provided in category (a) shall be allo-

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cated to school districts in which, and to county superintendents of schools for which, the ratio of state reimbursement received to approved costs per vehicle-mile traveled is below the statewide average. Funding shall be allocated to "level up" these districts towards the statewide average; in the event that the funding level is insufficient for this purpose, available funding shall be prorated among eligible districts.		
6110-113-001—For local assistance, Department of Education (Proposition 98), Program 20.70.030—California Assessment Program		1,000,000
Provisions:		
1. Funds appropriated by this item are for purposes of the alternative assessment pilot projects proposed in Assembly Bill 3296 of the 1989–90 Regular Session.		
6110-114-001—For local assistance, Department of Education (Proposition 98), for transfer to the State Controller, for reimbursement of claims received pursuant to Sections 42243.6 and 42247 of the Education Code, (court-ordered desegregation) Program 10.10.018—School Apportionments		433,820,000
Schedule:		
(1) 10.10.018.005-Bakersfield Unified Elementary School District	3,781,000	
(2) 10.10.018.010-Los Angeles Unified School District	319,613,000	
(3) 10.10.018.015-San Bernardino Unified School District	8,980,000	
(4) 10.10.018.020-San Diego Unified School District	43,508,000	
(5) 10.10.018.025-San Francisco Unified School District	30,884,000	
(6) 10.10.018.030-San Jose Unified School District	23,566,000	
(7) 10.10.018.035-Stockton Unified School District	3,000,000	
(8) 10.10.018.040-Palo Alto Unified School District	275,000	
(9) 10.10.018.050-Redwood City Elementary School District	19,000	
(10) 10.10.018.055-San Mateo County Superintendent	74,000	
(11) 10.10.018.060-Santa Clara County Office of Education	12,000	

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(12) 10.10.018.065-Sequoia High School District	108,000

Provisions:

1. Funds appropriated by this item are for reimbursement of amounts necessary to pay costs of integration programs initially mandated by the courts, as defined in Section 2205 of the Revenue and Taxation Code pursuant to any final court order issued after January 1, 1978.
2. The State Controller shall allocate funds appropriated in this item in accordance with the provisions of Sections 42243.6 and 42247 of the Education Code. Pursuant to the provisions of Section 42243.8 of the Education Code, the State Controller shall reimburse claims received pursuant to Sections 42243.6 and 42247 of the Education Code only from funds appropriated specifically for that purpose by the Legislature.
3. The State Controller shall allocate funds appropriated in this item in accordance with the schedule contained herein, unless a revision of that schedule has been approved by the Department of Finance. The State Controller shall allocate these funds only for 1990–91 fiscal year expenditures as claimed by local education agencies pursuant to Sections 42243.6 and 42247 of the Education Code.
4. The Department of Finance may not authorize any revisions to the schedule contained herein sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.
5. Funds appropriated in this item shall not be used to reimburse local education agency claims for school construction, reconstruction, replacement of facilities, purchase of existing facilities, purchase of land, or the performance of deferred maintenance activities on facilities, except for costs incurred pursuant to direct contractual commitments signed or court orders issued prior to June 30, 1990. Funds allocated to the San Francisco Unified School District for

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capital outlay costs from this item shall not exceed $15,000,000 in 1990–91. This language is not intended to exclude reimbursement for costs of remodeling existing facilities, provided that the remodeling is required in order to implement a desegregation-related educational program. Reimbursement for remodeling costs from this item shall be limited to 10 percent of the costs of replacing the facility being remodeled.		
6110-115-001—For local assistance, Department of Education, (Proposition 98) for transfer to the State Controller, for reimbursement of claims received pursuant to Sections 42247 and 42249 of the Education Code, (voluntary desegregation) Program 10.10.019—School Apportionments		78,824,000
Schedule:		
(1) 10.10.019.001—Instruction: School Apportionments-voluntary desegregation-Pittsburg Unified School District	6,000	
(2) 10.10.019.002—Instruction: School Apportionments-voluntary desegregation-Richmond Unified School District	9,011,000	
(3) 10.10.019.003—Instruction: School Apportionments-voluntary desegregation-Fresno Unified School District	3,491,000	
(4) 10.10.019.004—Instruction: School Apportionments-voluntary desegregation-Brawley Elementary School District	76,000	
(5) 10.10.019.005—Instruction: School Apportionments-voluntary desegregation-El Centro Elementary School District	338,000	
(6) 10.10.019.006—Instruction: School Apportionments-voluntary desegregation-Bakersfield City Elementary School District	484,000	
(7) 10.10.019.007—Instruction: School Apportionments-voluntary desegregation-Hanford Unified School District	11,000	

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(8) 10.10.019.008—Instruction: School Apportionments-voluntary desegregation-Long Beach Unified School District	5,113,000
(9) 10.10.019.009—Instruction: School Apportionments-voluntary desegregation-Los Angeles Unified School District	30,773,000
(10) 10.10.019.010—Instruction: School Apportionments-voluntary desegregation-Pasadena City Unified School District	1,703,000
(11) 10.10.019.011—Instruction: School Apportionments-voluntary desegregation-Santa Monica-Malibu School District	209,000
(12) 10.10.019.012—Instruction: School Apportionments-voluntary desegregation-Whittier Union High School District	507,000
(13) 10.10.019.013—Instruction: School Apportionments-voluntary desegregation-Merced City Elementary School District	80,000
(14) 10.10.019.014—Instruction: School Apportionments-voluntary desegregation-Monterey Peninsula Unified School District	128,000
(15) 10.10.019.015—Instruction: School Apportionments-voluntary desegregation-North Monterey County Unified School District	335,000
(16) 10.10.019.016—Instruction: School Apportionments-voluntary desegregation-Fullerton Elementary School District	136,000
(17) 10.10.019.017—Instruction: School Apportionments-voluntary desegregation-Banning Unified School District	18,000
(18) 10.10.019.018—Instruction: School Apportionments-voluntary desegregation-Riverside Unified School District	241,000

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(19)	10.10.019.019—Instruction: School Apportionments-voluntary desegregation-Sacramento City Unified School District.....	511,000
(20)	10.10.019.020—Instruction: School Apportionments-voluntary desegregation-San Bernardino City Unified School District.	1,842,000
(21)	10.10.019.021—Instruction: School Apportionments-voluntary desegregation-Chula Vista City Unified School District.....	261,000
(22)	10.10.019.022—Instruction: School Apportionments-voluntary desegregation-San Diego City Unified School District.....	5,944,000
(23)	10.10.019.023—Instruction: School Apportionments-voluntary desegregation-Sweetwater Union High School District.....	317,000
(24)	10.10.019.024—Instruction: School Apportionments-voluntary desegregation-San Francisco Unified School District.....	2,274,000
(25)	10.10.019.025—Instruction: School Apportionments-voluntary desegregation-San Mateo City Elementary School District...	168,000
(26)	10.10.019.026—Instruction: School Apportionments-voluntary desegregation-San Mateo Union High School District.....	62,000
(27)	10.10.019.027—Instruction: School Apportionments-voluntary desegregation-Sequoia Union High School District.....	51,000
(28)	10.10.019.028—Instruction: School Apportionments-voluntary desegregation-Lompoc Unified School District	5,000
(29)	10.10.019.029—Instruction: School Apportionments-voluntary desegregation-Santa Barbara City Elementary School District.....	26,000

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(30) 10.10.019.030—Instruction: School Apportionments-voluntary desegregation-Mountain View-Los Altos High School District	57,000
(31) 10.10.019.031—Instruction: School Apportionments-voluntary desegregation-San Jose City Unified School District	1,064,000
(32) 10.10.019.032—Instruction: School Apportionments-voluntary desegregation-Pajaro Valley Unified School District	865,000
(33) 10.10.019.033—Instruction: School Apportionments-voluntary desegregation-Oxnard Elementary School District	384,000
(34) 10.10.019.034—Instruction: School Apportionments-voluntary desegregation-Santa Paula Elementary School District	702,000
(35) 10.10.019.035—Instruction: School Apportionments-voluntary desegregation-ABC Unified School District	32,000
(36) 10.10.019.036—Instruction: School Apportionments-voluntary desegregation-Ventura Unified School District	33,000
(37) 10.10.019.037—Instruction: School Apportionments-voluntary desegregation-La Habra City Elementary School District	29,000
(38) 10.10.019.038—Instruction: School Apportionments-voluntary desegregation-Duarte Unified School District	27,000
(39) 10.10.019.039—Instruction: School Apportionments-voluntary desegregation-East Side Union High School District	77,000
(40) 10.10.019.040—Instruction: School Apportionments-voluntary desegregation-Berkeley City Unified School District	8,121,000

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(41)	10.10.019.041—Instruction: School Apportionments-voluntary desegregation-Claremont Unified School District.....	186,000
(42)	10.10.019.042—Instruction: School Apportionments-voluntary desegregation-Gilroy Unified School District	520,000
(43)	10.10.019.043—Instruction: School Apportionments—voluntary desegration-Grant Joint Union High School District.....	2,606,000

Provisions:

1. Funds appropriated by this item are for reimbursement of amounts necessary to pay the costs of desegregation programs as defined in Section 42249 of the Education Code, initiated voluntarily by local education agencies.
2. The State Controller shall allocate funds appropriated in this item in accordance with the provisions of Section 42247 of the Education Code. The State Controller shall reimburse these claims only from funds appropriated specifically for that purpose by the Legislature.
3. The State Controller shall allocate funds appropriated in this item in accordance with the schedule contained herein, unless a revision of that schedule has been approved by the Department of Finance. The State Controller shall allocate these funds only for 1990–91 fiscal year expenditures as claimed by local education agencies pursuant to Sections 42247 and 42249 of the Education Code.
4. The Department of Finance may not authorize any revisions to the Schedule contained herein sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.
5. Funds appropriated in this item shall not be used to reimburse local education agency claims for school construction, reconstruction, replacement of facilities, purchase of existing facilities,

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purchase of land, or the performance of deferred maintenance activities on facilities, except for costs incurred pursuant to direct contractual commitments signed or court orders issued prior to June 30, 1990. Funds allocated to the San Francisco Unified School District for capital outlay costs from this item shall not exceed $15,000,000 in 1990–91.

This provision shall not be construed to exclude reimbursement for costs of remodeling existing facilities, provided that the remodeling is required in order to implement a desegregation-related educational program. Reimbursement for remodeling costs from this item shall be limited to 10 percent of the costs of replacing the facility being remodeled.

6110-116-001—For local assistance, Department of Education (Proposition 98), Program 20.60.030—School Improvement Program 306,093,000

Schedule:

(a) 20.60.030.010—For the purpose of making allowances for kindergarten and grades 1 to 6, inclusive... 256,194,000

(b) 20.60.030.020—For the purpose of making allowances for grades 7 to 12, inclusive 49,899,000

Provisions:

1. Funds appropriated by this item are for transfer by the Controller to Section A of the State School Fund for direct disbursement by the Department of Education in lieu of the appropriations made for the 1990–91 fiscal year pursuant to subdivisions (a) and (b) of Section 75 of Chapter 894 of the Statutes of 1977, for the purpose of making allowances for the School Improvement Program and notwithstanding the third paragraph of Section 87 of Chapter 894 of the Statutes of 1977, and pursuant to Article 4 (commencing with Section 52046) of Chapter 6 of Part 28 of the Education Code.
2. The Department of Education shall allocate the funds scheduled in category (b) above to each district eligible to receive an allowance on the basis of the per unit of average daily attendance amounts specified in subdivision (b) of Section 52046 of the Education Code, adjusted on a prorata basis to conform to the amounts scheduled above.

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3. The Department of Education shall promote the legislative intent for equalized funding for kindergarten and grades 1 through 6 and allocate funds appropriated in category (a) above in accordance with Section 52048 of the Education Code.
4. Notwithstanding any other provisions of law, of the amount appropriated in category (b) above, $14,600,000 is for apportionment to school districts as determined by the Superintendent of Public Instruction for the purpose of funding implementation grants at a level of $30 per pupil in grades 7 and 8 to those districts which received School Improvement Program grants at that level during the 1989–90 fiscal year.
5. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and in Item 6110-226-001 for this program shall be the maximum amount allocated for the purposes of Chapter 6 (commencing with Section 52000) of Part 28 of Division 4 of the Education Code.

6110-117-001—For local assistance, State Department of Education, Program 10.70—Vocational Education, in lieu of the amount which would otherwise be appropriated pursuant to subdivision (b) of Section 19632 of the Business and Professions Code... 375,000

Provisions:

1. The Director of Finance may, pursuant to a request from the Superintendent of Public Instruction, authorize an augmentation or reduction of the amount available for expenditure in this item by transfer from or to Item 6110-118-001 of this act. These transfers shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. These transfers shall not exceed, in any fiscal year, 10 percent of the amount available for expenditure in the affected appropriation.

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6110-118-001—For local assistance, Department of Education (Proposition 98), Program 10.70—Vocational Education, in lieu of the amount which would otherwise be appropriated pursuant to subdivision (b) of Section 19632 of the Business and Professions Code	201,000

Provisions:

1. The Director of Finance may, pursuant to a request from the Superintendent of Public Instruction, authorize an augmentation or reduction of the amount available for expenditure in this item by transfer from or to Item 6110-117-001 of this act. These transfers shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. These transfers shall not exceed, in any fiscal year, 10 percent of the amount available for expenditure in the affected appropriation.

6110-119-001—For local assistance, Department of Education (Proposition 98), Program 20.40-Supplementary Program Services, for the purposes of Chapter 6 (commencing with Section 58800) of Part 31 of the Education Code, Article 2.3 (commencing with Section 48643) of Chapter 4 of Part 27 of the Education Code, and Section 903.7 of the Welfare and Institutions Code, to be allocated according to the following schedule		4,167,000
Schedule:		
(b) 20.40.070-Opportunity Programs Incentives	1,969,000	
(c) 20.40.090-Specialized Secondary Programs	2,198,000	

Provisions:

1. Notwithstanding any other provision of law to the contrary, the amount appropriated in category (c) shall be the maximum amount allocated for the purposes of Chapter 6 (commencing with Section 58800) of Part 31 of the Education Code.

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6110-119-959—For local assistance, Department of Education, Program 20.40.060—Instructional Support—Foster Youth Services, payable from the Foster Children and Parent Training Fund 938,000

Provisions:

1. In the event that funds in the Foster Children and Parent Training Fund are insufficient to fund the appropriation level in this item, the Director of Finance is authorized to augment the appropriation in this item with moneys from the Proposition 98 General Fund Reserve pursuant to Section 12.31 of this act.

6110-120-001—For local assistance, Department of Education (Proposition 98), Program 20.40.100—Pupil Dropout Prevention Program, High-Risk Youth Liaison and Field Services for purposes of Article 6 (commencing with Section 52890) and Article 7 (commencing with Section 52900) of Chapter 12 of Part 28 of, Article 7 (commencing with Section 54720) of Chapter 9 of Part 29 of, and Chapter 3.5 (commencing with Section 58550) of Part 31 of, the Education Code 13,150,000

Provisions:

1. Of the amount appropriated in this item, $8,371,000 shall be available for the funding of outreach consultants by up to 200 schools with motivation and maintenance program plans developed in accordance with Chapter 1431, Statutes of 1985.
2. Of the amount appropriated in this item, $2,000,000 shall be available for the funding of outreach consultants by up to 50 school districts with dropout recovery program plans developed in accordance with the Chapter 1431, Statutes of 1985.
3. Prior to any school or school district hiring an outreach consultant with funds appropriated in this item, the school or school district shall have adopted a plan, subject to review by the Superintendent of Public Instruction, which includes a statement describing the specific duties of the outreach consultant. This duty statement shall provide that the outreach consultant must only perform activities which directly benefit "high-risk pupils" as defined in subdivision (c) of Section 54721 of the Education Code. Each outreach consultant shall receive no more than

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forty-one thousand eight hundred and fifty-five dollars ($41,855) annually.

4. Of the amount appropriated in this item, $1,900,000 shall be available for payments to certified educational clinics established in accordance with Chapter 3.5 (commencing with Section 58550) of Part 31 of the Education Code.
5. Of the amount appropriated in this item, $366,000 shall be available for grants to be awarded by the Superintendent of Public Instruction to schools for the purpose of implementing dropout prevention programs based upon model programs approved for use by the Department of Education.
6. The district of any school receiving funds pursuant to Provision 1 of this item shall collect and report data to the Superintendent of Public Instruction on student dropouts, as well as any other data deemed necessary by the superintendent to evaluate motivation and maintenance programs. This data shall be reported in a format, to be determined by the Superintendent of Public Instruction. Whenever feasible, the superintendent shall collect this data through the California Basic Educational Data System.

   None of the funds appropriated in this item shall be used for activities related to the California-Local Education Reform Network (C-LERN) project, with the exception of those schools operating programs funded under the provisions of Chapter 1431 of the Statutes of 1985.
7. Of the amount appropriated in this item, $513,000 shall be allocated by the Superintendent of Public Instruction in augmentation of the amounts specified in the above provisions for expansion of the programs.

6110-121-001—For local assistance, Department of Education (Proposition 98), Program 10.30.070 Economic Impact Aid 263,679,000

Schedule:

(a) For allocation pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29 of the Education Code 193,998,000

(b) For allocation pursuant to Article 4 (commencing with Section

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54040) of Chapter 1 of Part 29 of, and Sections 54031 and 54033 of, the Education Code 69,681,000

Provisions:

(1) Funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund for direct disbursement by the Department of Education for the purposes of the Economic Impact Aid Program pursuant to Chapter 1 (commencing with Section 54000) of Part 29 of the Education Code.

(2) The dollar amounts scheduled above, and the amounts specified in Section 54031 of the Education Code, shall be adjusted appropriately to reflect any additional funding provided in Item 6110-226-001 for a cost-of-living adjustment.

(3) Should the funds appropriated be insufficient to meet the requirements of Article 4 (commencing with Section 54040) of Chapter 1 of Part 29 of the Education Code, the Superintendent of Public Instruction may prorate allocations pursuant to that article in order to match available funds.

6110-124-001—For local assistance, Department of Education (Proposition 98), Program 10.80.010 —Gifted and Talented Pupil Program, for the purposes of Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code..... 28,569,000

Provisions:

1. Funds appropriated by this item are for transfer by the Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for the 1990–91 fiscal year pursuant to Section 14002 of the Education Code.
2. Notwithstanding any other provision of law to the contrary, the amount appropriated in this item and the amount appropriated in Item 6110-226-001 for this program shall be the maximum amount allocated for the purposes of Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code.
3. Notwithstanding any other provision of law, any school district which participates in the Gifted and Talented Pupil Program shall receive in the 1990–91 fiscal year a level of funding not less

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than its 1989–90 fiscal year level of funding as adjusted for growth and cost of living.	
6110-126-001—For local assistance, Department of Education (Proposition 98), Program 20.10.035—Miller-Unruh Reading Program	21,785,000

Provisions:

1. Funds appropriated by this item are for the Special Elementary School Reading Instruction Program pursuant to Chapter 2 (commencing with Section 54100) of Part 29 of the Education Code.
2. The State Department of Education shall establish a procedure to accept applications from any school district for participation in the Miller-Unruh Reading Program. This procedure shall provide first priority for any available funding to districts with the lowest California Assessment Program reading scores and district base revenue limits. Whenever the number of reading specialist positions funded by the program is reduced in any school district, funds shall be reallocated to support an equivalent number of positions in another district or districts.

6110-128-001—For local assistance, Department of Education (Proposition 98), Community Education—Intergenerational Programs 126,000

Schedule:

(a) 41.00-Executive Management Special Services	126,000

Provisions:

1. The Director of Finance may, pursuant to a request from the Superintendent of Public Instruction, authorize an augmentation or reduction of the amount available for expenditure in this item by transfer from or to Item 6110-129-001 of this act. These transfers shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or designee, may in each instance determine. These transfers shall not exceed, in any fiscal year, 10 percent of the amount available for expenditure in the affected appropriation.

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6110-128-890—For local assistance, Department of Education, Program 20.10.015.010—Math/Science Teacher Training Grant, payable from the Federal Trust Fund	9,102,000
6110-129-001—For local assistance, State Department of Education, Community Education-Intergenerational Programs	47,000
Provisions:	
1. The Director of Finance may, pursuant to a request from the Superintendent of Public Instruction, authorize an augmentation or reduction of the amount available for expenditure in this item by transfer from or to Item 6110-128-001 of this act. These transfers shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the joint committee, or his or her designee, may in each instance determine. These transfers shall not exceed, in any fiscal year, 10 percent of the amount available for expenditure in the affected appropriation.	
6110-131-001—For local assistance, Department of Education (Proposition 98), Program 10.30.051—Native American Indian Education	399,000
6110-136-890—For local assistance, Department of Education, Program 10.30.060—Chapter I-ECIA—payable from the Federal Trust Fund	401,793,000
6110-141-890—For local assistance, Department of Education, Program 10.30.010—ECIA Chapter I-Migrant Education, payable from the Federal Trust Fund	93,207,000
6110-146-001—For local assistance, Department of Education (Proposition 98), Program 10.30.040—Demonstration Programs in Reading and Mathematics	4,570,000
Provisions:	
1. Funds appropriated by this item are for demonstration programs in reading and mathematics pursuant to Chapter 4 (commencing with Section 58600) of Part 31 of the Education Code.	
2. Notwithstanding any other provision of law, funds appropriated by this item and allocated to support the instructional costs of demonstration	

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programs established after June 30, 1986, shall be allocated only to programs that demonstrate a significant departure from or variation of existing instructional practices. The Department of Education shall establish criteria and guidelines necessary to ensure the implementation of this provision.

3. The Superintendent of Public Instruction shall develop rules and procedures which shall provide that: (a) in the 1990–91 fiscal year, funds appropriated by this item shall not be allocated to support more than 33 percent of the instructional costs of a demonstration program that has been in operation for a period of four years; and (b) in the 1990–91 fiscal year, funds appropriated by this item shall not be allocated to support the instructional costs of a demonstration program that has been in operation for a period of five or more years. The demonstration programs described in (a) and (b) may receive allocations from funds appropriated by this item to support curriculum development and dissemination activities.

   In allocating demonstration program funds in accordance with this provision, the Superintendent of Public Instruction shall assume that 70 percent of each program's budget supports instructional costs, and that the remaining 30 percent supports curriculum development and dissemination activities.
4. Any demonstration program for which funding pursuant to Chapter 4 (commencing with Section 58600) of Part 31 of the Education Code has been phased out may receive funds under this program only by reapplying to the program and having its application approved by the State Board of Education.
5. In fiscal year 1990–91, the Superintendent of Public Instruction shall allocate funds appropriated by this item which are reduced from existing program budgets in accordance with Provision 3 to new demonstration programs. The Superintendent of Public Instruction may retain up to 5 percent of program funds for statewide dissemination of demonstration program materials and for contracts with external agencies to provide technical assistance to demonstration

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program sites. New programs shall be funded for a maximum of six years.	
6110-151-001—For local assistance, Department of Education (Proposition 98), Program 10.30.050—American Indian Education Centers	2,372,000
Provisions:	
1. Funds appropriated by this item for Indian Education Centers are to carry out the provisions of Article 6 (commencing with Section 33380) of Chapter 3 of Part 20 of the Education Code.	
6110-156-001—For local assistance, Department of Education (Proposition 98), Program 10.50.010.001—Adult Education	278,490,000
Provisions:	
1. Funds appropriated by this item are in lieu of the amounts which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1990–91 fiscal year pursuant to Sections 14002, 14004 and 41301 of the Education Code, and are for transfer to Section A of the State School Fund, for the purposes of Section 52616 of the Education Code and Chapter 1025, Statutes of 1985.	
2. Notwithstanding Section 52616 of the Education Code, the average daily attendance (ADA) used in computing each district's 1990–91 block entitlement shall be the lesser of 109.74 percent of the district's 1981–82 adult block entitlement average daily attendance computed pursuant to paragraph (1) of subdivision (b) of Section 52616 of the Education Code, excluding average daily attendance in regional occupational centers and programs, or the district's reported 1990–91 annual adult average daily attendance, excluding average daily attendance in regional occupational centers and programs. Funds provided in this item for growth in average daily attendance are in lieu of the amounts which would otherwise be appropriated pursuant to Section 52616 of the Education Code.	
3. Notwithstanding any other provision of law to the contrary, the amount appropriated in this item, exclusive of the amount appropriated for the purpose of Chapter 1025, Statutes of 1985, and the amount appropriated in Item 6110-226-001 for this program shall be the maximum	

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amount allocated for the purposes of Section 52616 of the Education Code.

4. $29,885,000 of the funds appropriated by this item are available for funding special needs in adult education. These funds shall not be used to compute school district block entitlements pursuant to Section 52616 of the Education Code, and shall be exclusively utilized in the 1990–91 fiscal year as follows:
   (a) $20,273,000 shall be used to fund extraordinary needs in adult programs in English-as-a-second language (ESL), elementary and high school basic skills provided under subdivisions (b) and (c) of Section 41976 of the Education Code. The Superintendent of Public Instruction shall allocate these funds to districts as follows:
      (1) School districts shall be eligible to receive funding in 1990–91 for an amount equal to the ADA approved pursuant to subdivisions (a) and (c) of, and the portion not allocated to Greater Avenues for Independence (GAIN) of subdivision (d) of, Item 6110-156-001 of the Budget Act of 1989, or the actual ADA generated for the purposes specified pursuant to those provisions, whichever is less.
      (2) The remaining funds shall be allocated by the State Superintendent of Public Instruction to districts to fund additional ADA, based on the formula set forth in this paragraph. For purposes of this provision, the adult education block entitlement ADA used for this formula shall be 109.74 percent of the district's 1981–82 adult education block entitlement ADA computed pursuant to paragraph (1) of subdivision (b) of Section 52616 of the Education Code, excluding ADA in regional occupational centers and programs.
         (A) For school districts with allowable levels of ADA of 350 or less, the lesser of 100 units of additional ADA, or the amount of ESL and basic skills ADA actually gener-

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	ated in 1989–90 in excess of the cap, exclusive of any amount funded specifically for GAIN.	
	(B) For school districts with allowable levels of ADA greater than 350, and which in 1989–90 generated non-GAIN ADA in excess of the cap, an amount equal to the following percent of the cap, pursuant to the following schedule:	
	(i) 2 percent of the cap for those districts that, in 1989–90, generated up to 10 percent of the amount specified in the areas of ESL and basic skills;	
	(ii) 5 percent of the cap for those districts that, in 1989–90, generated between 11 and 50 percent of the amount specified in the areas of ESL and basic skills;	
	(iii) 7 percent of the cap for those districts that, in 1989–90, generated between 51 and 75 percent of the amount specified in the areas of ESL and basic skills;	
	(iv) 10 percent of the cap for those districts that, in 1989–90, generated over 75 percent of the amount specified in the areas of ESL and basic skills.	
	(C) In the event that the amounts computed pursuant to this paragraph exceed the amounts appropriated for these purposes, the amounts computed for this provision shall be reduced on a proportionate basis.	
	(D) Notwithstanding any other provision of law, the Superintendent of Public Instruction shall, in the 1990–91 fiscal year, reallocate to school districts any unexpended balance of the amount in this subdivision for the 1990–91 fiscal year	

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to those districts with unfunded growth in ESL, elementary, and high school basic skills in the 1990–91 fiscal year on a per ADA basis, not to exceed the statewide adult average revenue limit.

(b) $9,612,000 shall be used to fund remedial education services for participants in the Greater Avenues for Independence (GAIN) program pursuant to Chapter 1025 of the Statutes of 1985. These funds shall be apportioned by the Superintendent of Public Instruction only to school districts that certify that they are unable to provide educational services to GAIN recipients within their adult education block entitlements.

(e) As a condition of receiving these funds, school districts shall certify to the Superintendent of Public Instruction that levels of annual average daily attendance in the 1990–91 fiscal year in (1) programs for (A) English-as-a-second language and (B) elementary and high school basic skills and (2) which are used to compute block entitlements, shall be maintained at or above levels funded in either the 1988–89 or the 1989–90 fiscal year, whichever levels are higher, for each of these two areas. The Superintendent of Public Instruction shall, at the time of the annual apportionment, reduce funding by the corresponding amount to any school district receiving funds affected by this provision which fails to generate certified levels of average daily attendance.

5. Any adult education surpluses accrued pursuant to subdivision (d) of Section 52616 of the Education Code may be reallocated by the Superintendent of Public Instruction for either the fiscal year during or after which such surplus accrued. In reallocating these surpluses, the superintendent shall give first priority to funding remedial education services for GAIN participants in both fiscal years.

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6. Notwithstanding any provision of law to the contrary, funds appropriated in this item for average daily attendance (ADA) generated by participants in the GAIN program established by Chapter 1025 of the Statutes of 1985 may be apportioned on an advance basis to local education agencies based on expected units of ADA, if a prior application for such additional ADA funding has been approved by the Superintendent of Public Instruction.	
6110-156-890—For local assistance, Department of Education, Program 10.50.010.001—Adult Education, payable from the Federal Trust Fund	11,006,000
6110-158-001—For local assistance, Department of Education (Proposition 98), Program 10.50.010.002—Adult Education, for transfer to Section A of the State School Fund in lieu of the amount which would otherwise be appropriated pursuant to Section 41841.5 of the Education Code—Adults in Correctional Facilities	3,199,000
Provisions:	
1. Notwithstanding any other provision of law to the contrary, the amount appropriated in this item and the amount appropriated in Item 6110-226-001 for this program shall be the maximum amount allocated for the purposes of Section 41841.5 of the Education Code.	
6110-160-001—For local assistance, Department of Education, Program 10.60-Special Education Programs for Exceptional Children	209,000
Provisions:	
1. Funds appropriated in this item are available for matching funds with the Department of Rehabilitation to provide coordinated services to handicapped pupils.	
6110-161-001—For local assistance, Department of Education (Proposition 98), Program 10.60—Special Education Programs for Exceptional Children	1,365,628,000
Provisions:	
1. Funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1990–91 fiscal year pursuant to Sections 14002 and 41301 of the Education Code, for apportionment pursuant to	

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Part 30 of the Education Code, superseding all prior law.

3. Of the amount appropriated in this item, no more than $44,172,000 may be used for the purposes of Article 9 (commencing with Section 56780) of Chapter 7 of Part 30 of the Education Code.

4. Of the amount appropriated in this item, $78,353,000 shall be available for program growth pursuant to Section 56728.6 of the Education Code. The funds allocated pursuant to this provision shall be the only funds available in this item for program growth.

These funds shall be allocated to fully fund calculated growth units for special education programs serving pupils ages 3–21, excluding pupils ages 3 and 4 not requiring intensive services, based on each SELPA's pupil count data and an average number of pupils per unit of:

(a) For special day classes and centers—10,

(b) For resource specialist programs—24,

(c) For designated instructional services—24.

For the purposes of allocating special day class and center (SDC) growth units, a revenue limit offset shall be calculated for the unfunded 1989–90 P-2 SDC average daily attendance for those local educational agencies which are scheduled to receive SDC growth units. In no case shall the offset exceed 8 pupils per SDC growth unit. All other SDC growth units will be allocated using no revenue limit offset.

5. The number of units to be recaptured shall be calculated pursuant to Section 56728.6 of the Education Code. Within each SELPA, to maximize the use of existing units, the units available for recapture shall be shifted to any instructional setting that is eligible for growth pursuant to Provision 4. After maximizing the existing units, growth shall be calculated pursuant to the standards in Provision 4. Waivers of the subcaps (Education Code Section 56728.6) may only be approved if compliance would prevent the provision of a free, appropriate public education.

6. (a) Of the amount appropriated in this item, $500,000 shall be available only for units approved by waiver for very sparse and rural SELPAs which are not eligible for calcu-

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lated growth units pursuant to Provision 4. Waivers for sparsity may be approved only after previous waivers have been reviewed to determine that those units were utilized in sparsely populated areas of the SELPA, that additional units are necessary for these areas and that severe hardship would occur without additional units for this purpose.

(b) If Senate Bill 823 is enacted and effective in the 1990–91 fiscal year, the funds specified in subdivision (a) of this provision shall be used for the purposes of Senate Bill 823.

7. Of the amount appropriated in this item, $1,150,000 shall be available for infant program growth units (ages birth–2). Funds for infant units shall be allocated with the following average number of pupils per unit:
   (a) For special classes and centers—16,
   (b) For resource specialist programs—24,
   (c) For designated instructional services—16.
8. Of the amount appropriated in this item, no more than $313,000 shall be available for the purposes of Section 56775.5 of the Education Code.
9. $7,306,000 of the funds appropriated in this item are available for purchase, repair, and inventory maintenance of specialized books, materials, and equipment for pupils with low-incidence disabilities, as defined in Section 56026.5 of the Education Code.
10. $3,653,000 of the funds appropriated in this item are available for matching funds for the purposes of PL 98-524, and for vocational training and job placement for special education students through Project Workability I pursuant to Article 3 (commencing with Section 56470) of Chapter 4.5 of Part 30 of the Education Code. As a condition of receiving these funds, each agency must certify that the amount of non-federal resources, exclusive of funds received pursuant to this provision, devoted to the provision of vocational education for special education pupils shall be maintained at or above the level provided in 1984–85. The Superintendent of Public Instruction may waive this requirement for agencies which can demonstrate that the requirement would im-

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pose a severe hardship.

12. Notwithstanding Education Code Section 56738(b), DIS units funded in excess of the 1980/81 level of DIS units operated shall receive the full support entitlement computed pursuant to Education Code Section 56737.

14. Notwithstanding Attorney General Opinion A.G. 89-202 or any provision of law to the contrary, the penalties and interest on property tax redemptions received by school districts, county offices of education, and community college districts during the 1990–91 fiscal year shall not be considered property tax revenue for the purpose of determining the state aid portion of school apportionment funding.

6110-161-890—For local assistance, Department of Education, payable from the Federal Trust Fund, Program 10.60—Special Education Programs for Exceptional Children 181,521,000

Schedule:

(a)	10.60.050.010-PL 94-142, local entitlements	131,866,000
(b)	10.60.050.020-PL 94-142, direct and indirect instructional services approved in the State Plan	11,630,000
(c)	10.60.050.030-PL 99-457, Preschool Grant Program.....	33,228,000
(d)	10.60.030-EHA, Title VIC, Deaf-Blind Center	240,000
(e)	10.60.050.040-EHA, Title VID, Handicapped Personnel Preparation Grants.....	657,000
(f)	10.60.050.050-PL 98-199, Removal of Architectural Barriers	3,640,000
(g)	10.60.050.070-EHA, Title VIC, Least Restrictive Environment ...	260,000

Provisions:

1. If the funds for Part B of the Education for All Handicapped Act that are actually received by the state exceed $150,807,000, up to $200,000 of additional funds may be provided to the Timpany Center in Santa Clara County. However, $2 from this item shall be allocated for each $1 provided from local services, and the Timpany Center shall certify that the funds provided from this item shall be used to provide services only to youth through age 21. At least 95 percent

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of the funds received in excess of $150,807,000 shall be allocated for local entitlements. Five percent (5%) of the amount received in excess of $151,007,000 may be used for state administrative expenses.

If the funds for Part B of the Education for All Handicapped Act that are actually received by the state are below $150,807,000, the reduction shall be taken in direct and indirect instructional services.

2. Of the funds appropriated in Schedule (b) of this item, up to $1,000,000 may be used to fund licensed children's institution growth units pursuant to Section 56776 of the Education Code. These funds are to be used for instructional units only.
3. Of the funds appropriated in Schedule (b) of this item, up to $2,324,000 may be used to provide funding for infant programs, and may be used for those programs that do not qualify for funding pursuant to Section 56728.8 of the Education Code.
4. Of the funds appropriated in Schedule (b) of this item, up to $2,425,000 may be allocated to local education agencies for the purposes of Project WorkAbility I.
5. Of the funds appropriated in Schedule (b) of this item, up to $1,700,000 may be used to provide specialized services to pupils with low incidence disabilities, as defined in Section 56026.5 of the Education Code.
6. Of the funds appropriated in Schedule (b) of this item, up to $3,618,000 may be used for a personnel development program. This program will include state-sponsored staff development, local in-service components, bilingual, student study team, and core curriculum components. Of this amount, a minimum of $2,500,000 shall be allocated directly to special education local plan areas. The local in-service programs shall include a parent training component. All programs are to include evaluation components.
7. Of the funds appropriated in this item for the Preschool Grant Program, $1,228,000 may be used for in-service training programs. This program shall include state-sponsored and local components.

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8. Of the funds appropriated in Schedule (b) of this item, $200,000 shall be used for research and training in cross-cultural assessments.
9. Of the funds appropriated in Schedule (b) of this item, $363,000 may be used for in-service training for teachers of the severely handicapped.
10. (a) If funding pursuant to provision 1 of this item is not provided to the Timpany Center in Santa Clara County, subdivision (b) shall be applicable.
    (b) Of the funds appropriated in Schedule (b) of this item, up to $200,000 may be provided to the Timpany Center in Santa Clara County. However, $2 from this item shall be allocated for each $1 provided from local sources and the Timpany Center shall certify that the funds provided fromthis item are used to provide services only to youth through age 21.

6110-162-001—For local assistance, Department of Education (Proposition 98), Program 10.60.060—Alternatives to Special Education..... 620,000
Schedule:
(a) 10.60.060.010-Early Intervention for School Success..... 620,000

6110-165-001—For local assistance, Department of Education, Program 10.70—Vocational Education..... 7,200,000
Schedule:
(a) 10.70—Vocational Education..... 33,456,000
(b) Reimbursements.....—26,256,000
Provisions:
1. $25,400,000 of the funds appropriated in this item are for the purpose of the federal Job Training Partnership Act.
2. Notwithstanding any other provision of law, of the funds appropriated in this item, $7,200,000 are available for the purpose of matching Job Training Partnership Act funds available under Section 1602(b)(1) of Title 29 of the United States Code. The Superintendent of Public Instruction shall allocate these funds for the purpose of providing remedial education services to GAIN participants pursuant to Section 33117.5 of the Education Code.

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6110-166-001—For local assistance, Department of Education (Proposition 98), Program 10.70—Vocational Education, for the purpose of Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of the Education Code, Partnership Academies Program 1,516,000

6110-166-890—For local assistance, Department of Education, Program 10.70—Vocational Education, payable from the Federal Trust Fund 80,298,000

Provisions:

1. Of the funds appropriated in this item, $35,240,000 of the 1990–91 Federal Vocational Education Act funds shall be transferred to the community colleges by means of interagency agreements for the purpose of funding vocational education programs in community colleges.
2. The State Board of Education and the Board of Governors of the California Community Colleges shall develop policies to target funds appropriated by this item to provide services to Greater Avenues for Independence (GAIN) participants.
3. $814,000 of the funds appropriated in this item are for the purposes of Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of the Education Code, Partnership Academies Program.
4. The Superintendent of Public Instruction and the Chancellor of the California Community Colleges shall report jointly, not later than November 15 of each year, to the Joint Legislative Budget Committee, to the Director of Finance, and to the California Council on Vocational Education, describing the amount of carryover funds from this item, reasons for the carryover, and plans to reduce the amount of carryover.

6110-167-001—For local assistance, Department of Education (Proposition 98), Program 10.70, Vocational Education for the purpose of Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28 of the Education Code 3,139,000

Provisions:

1. As a condition of receiving funds appropriated in this item, a school district shall certify to the Superintendent of Public Instruction that: (1) Agricultural Vocational Education Incentive

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Program funds shall be expended for the items identified in its application for funding, except that in items of expenditure classification 4000, only the total cost of expenses shall be required and itemization shall not be required; and (2) the district shall provide at least 50 percent of the cost of the items and costs from expenditure classification 4000, as identified in its application, from other funding sources. The Superintendent of Public Instruction shall utilize appropriate accounting procedures, rules, and regulations to ensure compliance with this requirement. Nothing in this provision shall be construed as limiting the authority of the superintendent to waive the local matching requirement pursuant to subdivision (b) of Section 52461.5 of the Education Code.

6110-171-178—For local assistance, Department of Education, Program 10.80.020—Driver Training, payable from the Driver Training Penalty Assessment Fund, for transfer to Section A of the State School Fund..... (21,236,000)

Provisions:

1. The Department of Education shall allocate these funds among all participating school districts, county offices of education, the California Youth Authority and the State Department of Education in accordance with the provisions of Article 12 (commencing with Section 41900) of Chapter 5 of Part 24 and Article 1 (commencing with Section 41300) of Chapter 3 of Part 24 of the Education Code, except as noted in Provisions 2, 3 and 4.
2. Notwithstanding any other provision of law, funding for driver training programs during 1990–91 shall be made exclusively from funds appropriated in this item.
3. Notwithstanding any other provisions of law, all allowances made with funds appropriated by this item shall be made available only to reimburse 1989–90 program expenditures according to Education Code Sections 41334 and 14041(a)(5).
4. Notwithstanding any other provision of law, replacement allowances shall not exceed three-fourths of that part of the actual cost of instructing pupils in automobile driver training during

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the fiscal year which was: (1) in excess of ninety-seven dollars ($97) per regular pupil or two hundred ninety dollars ($290) per handicapped pupil, and (2) expended replacing the vehicles and simulators.		
6110-176-890—For local assistance, Department of Education, Program 10.40.030—Refugee and Immigrant Programs, payable from the Federal Trust Fund		19,048,000
Schedule:		
(a) 10.40.030.001-Emergency Immigrant Education Program	13,610,000	
(b) 10.40.030.002-Transition Program for Refugee Children	5,438,000	
6110-180-001—For local assistance, Department of Education (Proposition 98), Program 20.10.025—Institute for Computer Technology		418,000
Provisions:		
1. The amount appropriated in this item shall be available for funding average daily attendance of the Institute for Computer Technology in accordance with Article 8 (commencing with Section 52480) of Chapter 9 of Part 28 of the Education Code.		
2. An amount not to exceed $100,000 of the amount specified in Provision 1 for the Institute of Computer Technology may be utilized to disseminate curriculum developed pursuant to Chapter 1516 of the Statutes of 1985.		
6110-181-001—For local assistance, Department of Education (Proposition 98), for Educational Technology, Program 20.10.025—Technology Education		13,570,000
6110-181-140—For local assistance, Department of Education, Program 20.10.055-Environmental Education, payable from the California Environmental License Plate Fund		515,000
6110-183-890—For local assistance, Department of Education, Program 20.10.045—Health and Physical Education, Instructional Support—Drug Free Schools and Communities Act of 1986 (PL 100-297).		33,940,000
Provisions:		
1. School districts shall give priority in the expenditure of these funds to establishing, expanding, or improving programs that target students at high-risk of abusing drugs (including alcohol). The Superintendent of Public Instruction shall (1) notify school districts of this policy, and (2)		

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incorporate the policy into the department's quality review procedures.

2. The Superintendent of Public Instruction, in conjunction with the Office of Criminal Justice Planning and in consultation with the Legislative Analyst, shall summarize in writing the available research literature on program effectiveness and disseminate this information directly to all school districts. The Superintendent shall also incorporate this information into existing state programs of staff development and technical assistance.

6110-186-001—For local assistance, Department of Education (Proposition 98), Program 20.20.020.001—Instructional Materials Management and Distribution—Grades K–8 99,866,000

Provisions:

1. Funds appropriated by this item are for transfer by the Controller, in lieu of the appropriation provided for in Section 60246 of the Education Code, to the State Instructional Materials Fund, for allocation during the 1990–91 fiscal year for the purchase of instructional materials for Kindergarten through grade 8, pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33 of the Education Code. These funds shall be transferred to the State Instructional Materials Fund by the Controller in amounts claimed by the Department of Education, and the remaining balance, if any, shall be transferred to the State Instructional Materials Fund on June 30, 1991.
2. Funds appropriated by this item for the Instructional Materials Management and Distribution Program shall be transferred for direct disbursement by the Department of Education from the State Instructional Materials Fund.
3. Notwithstanding the provisions of Part 33 (commencing with Section 60000) of the Education Code, and pursuant to the August 27, 1981, decision of the California Supreme Court in California Teachers' Association vs. Riles, no part of the funds appropriated herein shall be used to provide instructional materials for nonpublic schools or students.
4. No pupil textbooks shall be adopted by the State Board of Education and no funds shall be avail-

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able to finance contracts for textbooks in which the royalty amount exceeds 55 percent of the completed book bid, which is the total cost less sales tax less all freight. Royalty amounts payable shall be adjusted in subsequent years in conformance with the Consumer Price Index —All Items, of the Bureau of Labor Statistics of the United States Department of Labor, provided that such adjustment shall occur only when the completed book bid is revised, pursuant to Sections 60201 and 60223 of the Education Code.

5. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and in Item 6110-226-001 for this program shall be the maximum amount allocated for the purpose of Section 60246 of the Education Code.
6. In the 1990–91 fiscal year, notwithstanding any other provision of law, the cash allotments pursuant to paragraph (2) of subdivision (a) of Section 60242 of the Education Code, the allowances pursuant to subdivision (b) of Section 60242 of the Education Code, and the apportionments pursuant to Section 60247 of the Education Code shall be made in full in the form of single payments to eligible school districts not later than September 15, 1990.

6110-187-001—For local assistance, Department of Education (Proposition 98), Program 20.20.020.002 —Instructional Materials Management and Distribution—Grades 9–12 25,265,000

Provisions:

1. Funds appropriated by this item are for transfer by the Controller to the State Instructional Materials Fund, for allocation during the 1990–91 fiscal year for the purchase of instructional materials for grades 9 through 12, pursuant to Sections 60247 through 60249, inclusive, of the Education Code. These funds shall be transferred to the State Instructional Materials Fund by the Controller in amounts claimed by the Department of Education, and the remaining balance, if any, shall be transferred to the State Instructional Materials Fund on June 30, 1991.
2. Funds appropriated by this item for the Instructional Materials Management and Distribution Program shall be transferred for direct disburse-

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ment by the Department of Education from the State Instructional Materials Fund.

3. Notwithstanding the provisions of Part 33 (commencing with Section 60000) of the Education Code, and pursuant to the August 27, 1981, decision of the California Supreme Court in California Teachers' Association vs. Riles, no part of the funds appropriated herein shall be used to provide instructional materials for nonpublic schools or students.
4. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and in Item 6110-226-001 for this program shall be the maximum amount allocated for the purpose of Section 60247 of the Education Code.
5. In the 1990–91 fiscal year, notwithstanding any other provision of law, the cash allotments pursuant to paragraph (2) of subdivision (a) of Section 60242 of the Education Code, the allowances pursuant to subdivision (b) of Section 60242 of the Education Code, and the apportionments pursuant to Section 60247 of the Education Code, shall be made in full in the form of single payments to eligible school districts not later than September 15, 1990.

6110-190-001—For local assistance, Department of Education (Proposition 98), Program 20.10.040-Foreign Language and Global Studies 293,000

Provisions:

1. The La Canada Unified School District shall conduct a Global Studies Demonstration Project which integrates foreign language study with coursework in the politics, economics, and culture of the nations of the world. The project shall be conducted in accordance with the following:
   (a) The district shall seek to secure the participation of local community institutions in the demonstration project including, but not limited to, the Jet Propulsion Laboratory at the California Institute of Technology and the Pasadena Community College District.
   (b) The district shall prepare materials describing the project curriculum, resource requirements, and instructional methods and procedures and shall disseminate these ma-

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terials to all school districts in the state that serve students grades 9 to 12, inclusive. The district shall conduct inservice training sessions for teachers and administrators from other school districts.

(c) The district shall report annually to the State Department of Education the following information: the contributions of community institutions to the project, the materials required in (b), the number of persons and school districts participating in the training sessions, the qualifications and role of personnel employed by the project, the schedule of project activities during the year, detailed instructional objectives, project expenditures by object, the contribution of district resources to the project, the number of students and the amount of time they have received project services, the extent to which project objectives in (d) have been achieved, and the extent of parent participation in the project. The objective of this report shall be to provide sufficient information so that other school districts, if they choose, could replicate the project.

(d) The project shall be deemed to be successful to the extent that, after three years of operation, the following objectives have been achieved: (1) Two or more community institutions are contributing to the project at least 5 percent of the project resource requirements; (2) Pupil enrollment in foreign language courses increases by 10 percent; (3) Pupil enrollment in three or more years of foreign language courses increases by 5 percent; (4) Pupil enrollment is sufficient to fill one or more Japanese language classes; (5) Compared to students who do not participate in the project, statistically significantly more of the participants, upon completion of the 12th grade, will express an interest in careers involving international relations; (6) At least 85 percent of parent, teacher, and student participants express a high level of satisfaction with the project; (7) One or more other

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school districts have begun replication of the project.		
6110-191-001—For local assistance, Department of Education (Proposition 98), Program 20.60-Staff Development		95,110,000
Schedule:		
(a) 20.60.010.001-Administrator Training and Evaluation Program	5,216,000	
(b) 20.60.050.001-Mentor Teacher Program	63,634,000	
(c) 20.60.070-Bilingual Teacher Training	915,000	
(e) 20.60.140-Teacher Improvement	1,188,000	
(f) 20.60.110-Reader Service for Blind Teachers (for transfer to Reader Employment Fund)	235,000	
(g) 20.60.050.002-Beginning Teacher Support and Assessment Study	3,160,000	
(j) 20.60.50.004-School Development Plans, Resource Consortia and Subject Matter Projects	20,762,000	

Provisions:

1. With the exception of categories (e), (f), and (g), funds appropriated by this item are for transfer by the Controller to Section A of the State School Fund, for direct disbursement by the Department of Education, in lieu of the amount which would otherwise be appropriated for staff development pursuant to subdivision (a) of Section 74 of Chapter 894 of the Statutes of 1977.
2. Notwithstanding any other provision of law to the contrary, the amount appropriated in category (a) of this item shall be the maximum amount allocated for the purposes of Article 3—Administrator Training and Evaluation (commencing with Section 44681) of Chapter 3.1 of Part 25 of the Education Code.
3. Notwithstanding any other provision of law to the contrary, the amount appropriated in category (b) of this item shall be the maximum amount allocated for the purposes of Article 4—California Mentor Teacher Program (commencing with Section 44490) of Chapter 3 of Part 25 of the Education Code.
4. Notwithstanding any other provision of law, each school district which participates in the

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California Mentor Teacher Program and receives funds pursuant to subdivision (a) of Section 44492 of the Education Code shall certify to the Superintendent of Public Instruction that no more than 10 percent of the total amount which it receives pursuant to subdivisions (a) and (c) of Section 44492 of the Education Code will be used for administrative costs.

For purposes of this provision, "administrative costs" shall include the personnel costs of program administration and coordination, the costs of mentor teacher selection, and indirect costs associated with the mentor teacher program.

5. Notwithstanding any other provision of law, the amount appropriated in category (c) of this item shall be the maximum amount allocated for the purposes of Article 4—Bilingual Teacher Training Assistance Program (commencing with Section 52180) of Chapter 7 of Part 28 of the Education Code.
7. Notwithstanding any other provision of law to the contrary, the amount appropriated in category (e) of this item shall be the maximum amount allocated by the Department of Education for the purposes of the joint effort in teacher improvement by the Department of Education and the California State University system.
8. Pursuant to Chapter 1355 of the Statutes of 1988, the amount appropriated by category (g) of this item is for a joint study of alternative models of beginning teacher support and assessment by the Department of Education and the Commission on Teacher Credentialing. The study shall establish alternative models of beginning teacher support and assessment mechanisms and evaluate the costs and benefits of the alternative models.

   These funds shall be expended only upon development of a joint program and expenditure plan by the department and the Commission on Teacher Credentialing and approval of the plan by the Director of Finance.
9. Notwithstanding any other provision of law, the amount appropriated in category (j) of this item shall be the maximum amount allocated for the

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purposes of Article 1—Local Staff Development Programs (commencing with Section 44670.1) and Article 2—Resource Agency or Consortium (commencing with Section 44680) of Chapter 3.1 of Part 25 of the Education Code and Article 1—Subject Matter Projects (commencing with Section 99200) in Chapter 5 of Part 65 of the Education Code.			
10. Notwithstanding Section 42238.15 of the Education Code, no funding for workload increases shall be provided to the programs specified in category (e) of this item.			
11. Notwithstanding Section 42238.15 of the Education Code, only $55,000 for workload increases shall be provided to the programs specified in category (g) of this item. These funds shall be allocated to those programs that the Superintendent of Public Instruction determines cannot serve additional new teachers within existing resources.			
6110-192-001—For local assistance, State Department of Education, Program 20.60—Staff Development			1,603,000
Schedule:			
(a) 20.60.120-California International Studies		956,000	
(b) 20.60.125-Geography Education Alliances.....		104,000	
(c) 20.60.155-Regional Resource Science Center		543,000	
Provisions:			
1. With the exception of category (c), funds appropriated by this item are for transfer by the Controller to Section A of the State School Fund for direct disbursement by the State Department of Education.			
6110-196-001—For local assistance, Department of Education (Proposition 98), Program 30.10—Child Development.....			352,105,000
Schedule:			
(a) 30.10.010-Preschool.....		39,746,000	
(b) 3.10.020-Child Care Services		312,359,000	
(1) 30.10.020.001-General child development programs....222,096,200			
(2) 30.10.020.002-Campus children's centers.....	6,824,400		

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(3)	30.10.020.003-Schoolage parenting and infant development	7,399,000
(4)	30.10.020.004-Migrant day care	7,809,200
(5)	30.10.020.005-Special programs, Child Development, Rent Allowances	468,800
(6)	30.10.020.006-Special programs, Child Development, Allowances for Handicapped	787,800
(7)	30.10.020.007-Alternative payment program	35,367,000
(8)	30.10.020.008-Resource and referral	8,128,600
(9)	30.10.020.009-Campus child care tax bailout	4,461,200
(10)	30.10.020.010-Protective services	1,138,200
(11)	30.10.020.015-Extended Day Care	17,174,800
(12)	30.10.020.016-Special Programs, Child Development, California Child Care Initiative	250,000
(13)	30.10.020.018-Special Programs, Child Development, Exceptional needs	453,800

Provisions:

1. Funds scheduled in category (b) of this item shall be allocated subject to the requirements of Sections 8279 and 8279.1 of the Education Code.
2. The following reimbursement factors shall take effect as of July 1, 1990, but shall not apply to the School-Age Community Child Care Program:

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(a) Under 4 hours per day: 55% of the full-time daily rate.
(b) 4 to under 6½ hours: 75% of the full-time daily rate.
(c) 6½ to under 10½ hours: 100% of the full-time daily rate.
(d) 10½ hours and over: 118% of the full-time daily rate.

It is the intent of the Legislature that the rate specified in subdivision (d) of this provision shall result in services to additional children. Child development contractors that serve children 10½ hours or more per day and demonstrate to the satisfaction of the State Department of Education that their costs are reasonable and in excess of those allowed by subdivision (d) of this provision shall have the following apply: subdivision (a) of this provision shall be reduced to 50 percent, and subdivision (d) of this provision shall be increased to 150 percent.

The State Department of Education, using its existing procedures, shall give priority for the provision of services to additional children resulting from the change in subdivision (d) of this provision to counties that are relatively underserved by child development funds, as measured by funding per child receiving Aid to Families with Dependent Children (AFDC) in each county and other measures as deemed necessary by the department.

3. Notwithstanding Section 2.00 of this act, child development appropriations shall be available in accordance with the provisions of Section 8278 of the Education Code, except that funds remaining unencumbered as of June 30, 1991, shall revert to the General Fund. Further, the State Department of Education shall report to the Joint Legislative Budget Committee and the Department of Finance by March 31, 1991, the amount of child development funds, by program, which have been determined after audit to be unearned. The State Department of Education shall report on September 30, 1990, and on March 31, 1991, the settlement of claims payable from unearned contract funds balances by program. Further, the State Department of Ed-

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ucation shall report on September 30, 1990 and on March 31, 1991, the reencumbrance of unearned contract funds made pursuant to Section 8278 of the Education Code, by program, specifying the purpose and need for each expenditure.

4. The California Child Care Initiative shall ensure that the $250,000 in state funds are matched on a one-to-two basis, with private corporations and local governments providing up to $500,000.
5. Recognizing that the availability of child care is essential to economic self-sufficiency, it is the intent of the Legislature to fund child care services as necessary to support the goal of full employment.

Effective July 1, 1986, and notwithstanding the provisions of Sections 8263 and 8468.5 of the Education Code, if a GAIN participant reaches the top of a State Department of Education (SDE) waiting list and income and eligibility criteria for SDE programs are met, he or she shall be retained at the top of the list and enrollment in an SDE-subsidized space shall be deferred until the parent becomes employed or is separated from GAIN, whichever comes first. At this time, the participant who has been deferred for an SDE space shall have priority in the order of deferral for the next available SDE-subsidized space, regardless of income level that meets SDE criteria (with the exception of priorities for abused and neglected children).

These requirements shall not apply to parents whose children are enrolled in an SDE-subsidized space prior to the parents' enrollment in GAIN.

The Department of Social Services (DSS) and the State Department of Education (SDE) shall enter into a memorandum of understanding that specifies a level of service requirement by SDE programs for AFDC recipients. The data collected by SDE on September 15, 1986, and certified by the Auditor General on February 25, 1987, shall establish the plateau by county against which all future surveys of AFDC participation will be measured. For the 1990–91 fiscal year, the sampling will be made by SDE on September 15 and March 15. To establish an on-

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going process, SDE shall propose legislation that will fix these point-in-time dates in the Education Code.

If, upon comparison to the plateau, the AFDC participation falls below the certified county levels by more than 5 percent, the enrollment of GAIN participants, as specified in the previous paragraph, shall not be deferred. Deferrals shall resume only if AFDC participation levels are again in excess of the certified plateau.

6. The State Department of Education shall, to the extent possible, grant waivers of the school-age community child care requirements at the time contracts are issued. Notwithstanding any other provision of law, the Superintendent of Public Instruction shall ensure that waiver denials issued after the time contracts are issued shall not take effect until two months after the denial decisions are provided, in writing, to affected contractors. The two-month period may be extended at the discretion of the Superintendent of Public Instruction in order to provide contractors with a reasonable amount of time to comply with school-age community child care requirements. Nothing in this provision shall be construed to apply to school-age community child care agencies that do not apply for waivers in good faith.
7. Notwithstanding any other provision of law, the Superintendent of Public Instruction shall authorize any School Age Community Child Care program agency the choice of either a child day or a child hour as the contract unit of enrollment for the purpose of reimbursement. The agency's unit of choice shall remain in effect for the 1990–91 fiscal year and shall be the basis for determining earnings under the contract. After analysis of School-Age Community Child Care providers statewide, the superintendent shall establish an enrollment unit or units for reimbursement that will meet the needs of participating agencies.
8. Notwithstanding subdivision (e) of Section 8277.7 of the Education Code, the relocatable classroom located at Jacoby Creek School for the purposes of the "latch-key" program may also be used as a part-time elementary school class-

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room in accordance with existing agreements among officials of that school and child care council.

9. Notwithstanding any other provision of law, the State Department of Education, Child Development Division, may authorize a maximum reimbursement rate not to exceed the regional GAIN rate for child care for Alternative Payment Programs and Family Child Care Home Programs with nonemployee providers in service areas that exceeds the current statutory maximum reimbursement rate. This increased rate shall be subject to the procedures established by the State Department of Education pursuant to Section 8265.1 of the Education Code.
10. Notwithstanding any other provision of law, the State Department of Education may authorize the use of adjustment factors for special needs children under Section 8265.5 of the Education Code for Alternative Payment Programs and Family Child Care Homes Programs with nonemployee providers and Migrant Programs whose assigned reimbursement rates exceed the standard reimbursement rate established under subdivision (b) of Section 8265 of the Education Code.
11. Notwithstanding Section 8473.3 of the Education Code, if a School-Age Community Child Care Program contractor fails to operate at least 98 percent of the minimum days of operation required in its contract, or ceases operations, or the contract is terminated prior to the end of the contract period, the maximum reimbursable amount shall be reduced in proportion to the percentage of the contract minimum days of operation that the contractor was not in operation.
12. Community college districts which levied child development permissive override taxes pursuant to Sections 8329 and 8330 of the Education Code in the 1977–78 fiscal year and received fiscal relief through Chapter 282 of the Statutes of 1979 shall not receive reimbursement for child care services from the Superintendent of Public Instruction in excess of 75 percent of the average daily enrollment funding standards for

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campus child care programs. Campus child care programs operated by the University of California, California State University, and community colleges that did not levy a permissive override tax in the 1977–78 fiscal year shall receive reimbursement from the Superintendent of Public Instruction which equals 100 percent of the average daily enrollment funding standards for campus child care programs.

13. The amount appropriated by this item for campus child care tax bailout shall be allocated by the State Department of Education on order of the Chancellor of the California Community Colleges. The chancellor shall order the allocation of these funds to community college districts which levied child care permissive override taxes in the 1977–78 fiscal year pursuant to Sections 8329 and 8330 of the Education Code in an amount equal to the property tax revenues, tax relief subventions, and state aid required to be made available by the district to its child development program for the 1979–80 fiscal year pursuant to Section 30 of Chapter 1035 of the Statutes of 1979, increased by any cost-of-living increases granted in subsequent fiscal years. These funds shall be used only for the purpose of community college child development programs.
14. Notwithstanding Section 8278 of the Education Code, the State Department of Education shall adopt an expenditure plan for funds in excess of those required to make payments on accounts payable pursuant to subdivision (a) of Section 8278 of the Education Code. To the extent that the following provisions are not in conflict with legislative priorities specified in this act or in other subsequent legislation, the expenditure plan shall reflect the following distribution of funds:
    (a) Not less than 50 percent for direct service.
    (b) Not less than 20 percent for one-time-only special projects which will directly benefit children, including data collection and research.
    (c) Not less than 20 percent for staff development.

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15. Notwithstanding any other provision of law, for each School-Age Community Child Care Program approved for funding, the Superintendent of Public Instruction shall ensure that no more than one-half of the enrollees reported are eligible for and receiving subsidization as specified under subdivision (b) of Section 8468.5 of the Education Code. Agencies which fail to meet the requirements of this provision, and which do not have a State Department of Education approved waiver under Section 8474 of the Education Code, shall be deemed in noncompliance with the Education Code requirements. The failure of an agency to submit a corrective action plan within the timelines specified by the State Department of Education to correct the deficiency shall result in the agency being placed on conditional status. Agencies on conditional status shall be monitored monthly by the State Department of Education, which shall provide technical assistance to enable agencies to reach compliance.

    It is the intent of the Legislature that the above-referenced procedures shall be imposed for the 1990–91 fiscal year only. On July 1, 1991, the full fiscal effect of the state participation limits shall be resumed.

16. Notwithstanding subdivision (w) of Section 8208 of the Education Code and Section 8360 of the Education Code, a person employed as a "program director" shall hold a Children's Center Supervision Permit, or its equivalent as specified in Section 8360, or shall hold a waiver of these requirements issued by the Superintendent of Public Instruction. The Superintendent of Public Instruction may issue this waiver if the superintendent determines that the contractor has documented a compelling need to do so and if the candidate is likely to have a Children's Center Supervision Permit, or its equivalent as specified in Section 8360, no later than June 30, 1991, as shown by satisfactory progress on an educational plan prepared by the candidate.

17. To the extent permitted by Public Law 100-485, up to $3,500,000 of the funds provided in subcategory (3) of category (b) may be used as

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a basis for securing federal matching funds available for child care under Public Law 100-485. These additional funds shall be used only to continue and expand the child development component of the SAPID Program under the State Department of Education (SDE). The SDE shall actively seek matching federal funds at the earliest possible date. To the extent that Public Law 100-485 is implemented in the 1990–91 fiscal year, the State Department of Social Services, in consultation with the SDE, shall establish a reimbursement process to utilize available federal funds as specified.

18. For purposes of calculating State Department of Education Child Care and Development and State Preschool enrollment growth as required by Chapters 82 and 83 of the Statutes of 1989, the Department of Finance shall develop a state population formula for children ages 0 through 4 years based on California data available. This data may include, but not be limited to, birth, death, and net migration.

The Department of Finance shall report the 0 through 4-year old state population formula by October 1, 1992, and each year thereafter, to the State Department of Education, the Joint Legislative Budget Committee, and the fiscal committees of the Legislature.

For fiscal years 1991–92 and 1992–93, the Department of Finance shall use the K–8 ADA enrollment growth calculations in lieu of the 0 through 4-year old state population formula. For the 1993–94 fiscal year and each year thereafter, the Department of Finance shall use a 0 through 4-year old state population formula as required by Chapters 82 and 83 of the Statutes of 1989.

6110-196-890—For local assistance, Department of Education, Program 30.10—Child Development, payable from the Federal Trust Fund 3,477,000

Provisions:

1. Notwithstanding any other provision of law, the funds appropriated by this item, to the extent permissible under federal law, are subject to the provisions of Section 8262 of the Education Code.

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6110-201-001—For local assistance, Department of Education (Proposition 98), Program 30.20—Child Nutrition		43,730,000
Schedule:		
(a) 30.20.010—Child Nutrition	43,578,000	
(b) 30.20.020—Pregnant/Lactating Minors	152,000	

Provisions:

1. Funds appropriated by Schedule (a) of this item are for child nutrition programs pursuant to the provisions of Section 41311 of the Education Code. Claims for reimbursement of meals pursuant to this appropriation shall be submitted by school districts not later than September 30, 1991, to be eligible for reimbursement.
2. Notwithstanding any other provisions of law, except as provided in this provision, funds appropriated by this item shall be available for allocation in accordance with provisions of Section 49536 of the Education Code, except that the allocation shall not be made based on all meals served, but based on the number of meals that are served and which qualify as free or reduced-price meals in accordance with provisions of Sections 49501, 49550, and 49552 of the Education Code.
3. Notwithstanding any provision of law to the contrary, the reimbursement rate for the Meal Supplements for Pregnant or Lactating Students program in the 1990–91 fiscal year shall be 29.58 cents for breakfast or a snack and 29.58 cents for lunch, or 59.16 cents for a morning supplement, in addition to the reimbursement provided under Section 49536 of the Education Code. These amounts shall be increased as appropriate to reflect any cost-of-living increases provided in Item 6110-226-001 (i) (2).
4. The Director of Finance may, pursuant to a request from the Superintendent of Public Instruction, authorize an augmentation or reduction of the amount available for expenditure in this item by transfer from or to Item 6110-202-001 of this act. These transfers shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the

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Joint Legislative Budget Committee, or not sooner that whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. These transfers shall not exceed, in any fiscal year, 10 percent of the amount available for expenditure in the affected appropriation.	
6110-201-890—For local assistance, Department of Education, Program 30.20—Child Nutrition, payable from the Federal Trust Fund	610,000,000
6110-202-001—For local assistance, Department of Education, Program 30.20.010—Child Nutrition	6,494,000

Provisions:

1. Funds appropriated by this item are for child nutrition programs pursuant to Section 41311 of the Education Code. Claims for reimbursement of meals pursuant to this appropriation shall be submitted by school districts not later than September 30, 1991, to be eligible for reimbursement.
2. Notwithstanding any other provisions of law, except as provided in this provision, funds appropriated by this item shall be available for allocation in accordance with provisions of Section 49536 of the Education Code, except that the allocation shall not be made based on all meals served, but based on the number of meals that are served and which qualify as free or reduced price meals in accordance with provisions of Sections 49501, 49550, and 49552 of the Education Code.
3. The Director of Finance may, pursuant to a request from the Superintendent of Public Instruction, authorize an augmentation or reduction of the amount available for expenditure in this item by transfer from or to Item 6110-201-001 of this act. These transfers shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the joint committee or his or her designee, may in each instance determine. These transfers shall not exceed, in any fiscal year, 10 percent of the amount available for expenditure

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in the affected appropriation.		
6110-209-001—For local assistance, Department of Education (Proposition 98), for transfer to the Controller for reimbursement of claims received pursuant to Section 44944 of the Education Code, Program 10.10—School Apportionments		30,000
6110-224-001—For local assistance, Department of Education (Proposition 98)		51,846,000
Schedule:		
(a) 10.10.950—School Apportionments (year-round school incentive payments)	51,546,000	
(b) 10.10.020—Year-Round School Demonstration Program (Orchard Plan)	300,000	
Provisions:		
1. The funds appropriated in Schedule (a) of this item shall be the only funds allocated as incentive payments for year-round school operations pursuant to Sections 42250 and 42250.3 of the Education Code.		
2. Applications for year-round incentive payments pursuant to Sections 42250 and 42250.3 of the Education Code must annually be received by the Office of Local Assistance by no later than December 31 of the year in which the year-round operation occurred and for which payment is sought; applications received after that date shall not be processed. The Office of Local Assistance shall certify all eligible and approved claims to the Superintendent of Public Instruction by no later than April 1 of the following year. In the event that the funds available for a fiscal year are insufficient to fully pay all claims for that year, the Superintendent of Public Instruction shall at that time provide all approved claims with a prorated share of the funds made available.		
3. If a district receives state reimbursement specifically attributable to the cost of operating schools on a year-round basis pursuant to a court-ordered or voluntary desegregation program, the district shall be eligible for any portion of the allowances for incentive payments pursuant to Sections 42250 and 42250.3 of the Education Code for the 1990–91 fiscal year but only to the extent that the district incurs costs in		

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	1990–91 specifically attributed to operating schools on a year-round basis, as audited and approved by the State Controller, that exceed claims submitted for state reimbursement and deemed to be allowable costs by the State Controller for such year-round operation pursuant to Sections 42243.6 and 42249 of the Education Code for the 1990–91 fiscal year. Funds may be distributed during the 1990–91 fiscal year pursuant to this provision. However, the State Controller shall audit and may make adjustments to the funds distributed under this item in future years.	
	4. Notwithstanding subdivision (b) of Section 42250.3 of the Education Code, a school district that meets all the criteria described in subdivision (a) of Section 42250.3 shall receive, based only on year-round school operation during 1990–91, year-round education incentive payments calculated as follows:	
	(a) The school district shall certify no more than the number of pupils in year-round education in excess of the capacity of the school or schools, as determined by court order or State Allocation Board classroom loading standard, and may certify less than the total number in excess of this capacity.	
	(b) The Office of Local Assistance shall multiply the number of pupils determined in paragraph (a) by the allowable square footage of new construction for the grade levels of the excess pupils.	
	(c) The Office of Local Assistance shall multiply the amount determined in paragraph (b) by the average cost of new construction that would be allowed for schools of that grade level in that locale.	
	(d) The State Department of Education shall certify to the State Allocation Board the amount of land that would be necessary for an educationally adequate facility for the number and grade level of pupils determined in paragraph (a).	
	(e) The Office of Local Assistance shall multiply the amount determined in paragraph (d) by the cost of land in the area where a new school would be built, if the pupils	

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were not participating in year-round education.

(f) The Office of Local Assistance shall reduce the value of land in this calculation starting in the year after the state has purchased the land for the new school that would be built, if the pupils were not participating in year-round education. This reduction shall be one-third per year of the value of the land purchased.

(g) The Office of Local Assistance shall add the amounts determined in paragraphs (c) and (e) or (f), whichever applies, and multiply the result by .05.

(h) The Office of Local Assistance shall divide the amount determined in paragraph (g) by the number of students enrolled in the facility or facilities used for year-round education.

(i) The Office of Local Assistance shall determine the factor of excess pupil capacity by dividing the number of pupils determined in subdivision (a) by the pupil capacity, as determined by State Allocation Board classroom loading standards.

(j) The Office of Local Assistance shall divide the factor of excess pupil capacity determined in subdivision (i) by .15. The result shall be rounded to the third decimal and shall not exceed 1.000.

(k) The Office of Local Assistance shall multiply the factor determined in subdivision (j) by the amount determined in subdivision (h). The Office of Local assistance shall certify the amount so determined to the State Allocation Board.

(*l*) The State Allocation Board shall certify to the Superintendent of Public Instruction the amount determined in subdivision (k), not to exceed one hundred thirty-two dollars ($132) per pupil in year-round education facilities. (This amount has been adjusted to include the annual inflation for the prior calendar year on the basis of the cost index for class B construction as determined by the State Allocation Board in accordance

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with subdivision (b) of Section 42250.3 of the Education Code.)

(m) In accordance with existing statutory law, a school district shall, in addition to the eligibility criteria specified in Section 42250.3 of the Education Code, also meet the applicable eligibility criteria for the incentive payments provided pursuant to Section 42250 of the Education Code (that is, the school district shall be eligible for funding for new construction under the State School Building Lease-Purchase Program).

(n) In determining if there is substantial overcrowding in the entire school district or high school attendance area pursuant to subdivision (a) of Section 42250.3 of the Education Code, the Office of Local Assistance shall calculate the capacity of the entire district or high school attendance area in accordance with the existing methods used to determine eligibility for new construction funding.

(o) Excess capacity shall reflect only the additional capacity that has been generated as a result of using a multitrack year-round calendar, and shall not reflect the increased capacity of any leased or state emergency portable classroom added to a year-round site after July 1, 1989, or any leased portable or state emergency classroom at any year-round school site which is a site first used to calculate an incentive after July 1, 1989.

5. Notwithstanding Provision 4, incentive payments shall be subject to the following conditions:

(a) Schools which did not receive incentive payments in the preceding two fiscal years for accommodating pupils in excess of capacity shall accommodate at least 5 percent or more pupils over the capacity of the school.

(c) For the purposes of subdivision (a), school districts may average the overcrowding accommodated among a combination of schools.

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(d) No school accommodating a total number of pupils which is less than the capacity of the school for more than a majority of the school year shall qualify for incentive payments.

(e) It is the intent of the Legislature that, beginning in the 1990–91 fiscal year, no incentive payments shall be made for a school or combination of schools which on average accommodate fewer pupils than 105 percent of capacity. Pupils not on multitrack schedules shall be excluded from incentive payment computations.

6. The State Allocation Board shall exclude from allowable area square feet funding eligibility the amount of allowable building area which is determined by the level of the school or schools noted in subdivision (b) of provision 4 and determined by the calculation made pursuant to subdivision (b). In no case shall this exclusion be less than 5 percent of the calculated capacities of each school which was used to calculate year-round education incentive.

7. Project phase approvals that would have been approved and funded by the State Allocation Board with an effective date prior to March 1, 1990, except that the Board had no funds for that purpose, shall be exempt from provision 6.

8. Project phase approvals after March 1, 1990, shall be subject to the eligibility reductions specified in provision 6.

9. School districts may choose which project or level of approved projects is to be reduced, provided that the project was, or would have been, approved for Phase I with an effective date prior to March 1, 1990, and further provided that no land had been acquired, or construction commenced, for that project.

10. (a) The Department of Finance shall include in the Governor's Budget for the 1991–92 fiscal year revisions to the incentive program which meet all of the following objectives:

(1) Simplify the current formula.

(2) Ensure that the total costs of the incentive shall not be more than the full avoided cost of the schools or schools

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	which would otherwise have been built.		
	(3) Increase the minimum deduction from eligibility up to a maximum of 15 percent over a subsequent three-year period for each school used to claim the incentive funding.		
	(b) This provision shall be inoperative if a statute which revises the incentive funding program becomes operative on or before January 1, 1991.		
6110-225-001—For local assistance, Department of Education (Proposition 98), Program 20.60.020 School Climate (School—Law Enforcement).....			650,000
Provisions:			
1. Funds provided by this item are for support of the Interagency School Safety Demonstration Act of 1985 pursuant to Chapter 2.5 (commencing with Section 32260) of Part 19 of, and Article 10.3 (commencing with Section 35294) of Chapter 2 of Part 21 of, the Education Code.			
6110-226-001—For local assistance, Department of Education (Proposition 98), for cost-of-living increases to be transferred to, in lieu of the amount which otherwise would be provided pursuant to statute, and in augmentation of the respective appropriations by the State Controller upon enactment in accordance with the following.....			831,996,000
Schedule:			
(a) 10.10—School Apportionments.....		673,927,000	
(1) 10.10—Continuation Schools, in lieu of the amount which would otherwise be appropriated for inflation for this purpose (for transfer to Item 6110-101-001).....		161,000	
(1.5) 10.10.001.001—K–12 District Revenue Limit, in lieu of the amount which otherwise would be appropriated pursuant to stat-			

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	ute for the purpose of paragraph (1) of subdivision (b) of Section 42238 of the Education Code (for transfer to Item 6110-101-001).....616,077,000	
(2)	10.10.001.002—K–12 Districts, Necessary Small Schools, in lieu of the amount which otherwise would be appropriated pursuant to statute for the purpose of subdivision (f) of Section 42238 of the Education Code (for transfer to Item 6110-101-001).....	3,197,000
(3)	10.10.001.004—Meals for Needy Pupils Programs, in lieu of the amount which otherwise would be appropriated pursuant to statute for the purposes of Article 11 (commencing with Section 49550) of Chapter 9 of Part 27 of the Education Code (for transfer to Item 6110-101-001)	1,592,000
(4)	10.10.001.005—Apprentice Programs, in lieu of the amount which otherwise would be appropriated pursuant to stat-	

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	ute for the purpose of Section 8152 of the Education Code (for transfer to Item 6110-101-001).....	243,000
(5)	10.10.004—Regional Occupational Centers and Programs, for the purpose of Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of the Education Code, in lieu of the amount which would otherwise be appropriated for inflation adjustments pursuant to Sections 2557 and 42238 of the Education Code (for transfer to Item 6110-102-001)	9,870,000
(6)	10.10.005—K–12 County Offices of Education, in lieu of the amount which would otherwise be appropriated pursuant to statute for the purposes of Section 2557 and paragraph (2) of subdivision (a) of Section 2551.3 of the Education Code (for transfer to Item 6110-106-001)	12,127,000

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(6.2)	10.10.006—School Apportionments, Transportation, in lieu of the amount which would otherwise be appropriated for inflation adjustments for this purpose (for transfer to Item 6110-111-001(a))	3,995,000
(6.5)	10.10.008—School Apportionments, Bus Replacement, in lieu of the amount which would otherwise be appropriated for inflation for this purpose (for transfer to Item 6110-111-001 (b)).	43,000
(7)	10.10.011—Summer School Programs, in lieu of the amount which otherwise would be appropriated pursuant to statute for the purpose of Section 42239 of the Education Code (for transfer to Item 6110-101-001).....	4,493,000

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(8) 10.10.018—Court-ordered Desegregation, in lieu of the amount which otherwise would be appropriated pursuant to statute for the purpose of Sections 42243.6 and 42247 of the Education Code (for transfer to Item 6110-114-001)	18,341,000	
(9) 10.10.019—Voluntary Desegregation, in lieu of the amount which otherwise would be appropriated pursuant to statute for the purpose of Sections 42247 and 42249 of the Education Code (for transfer to Item 6110-115-001)	3,247,000	
(9.5) 10.10.950—Year Round School Incentive Payments, in lieu of the amount which otherwise would be appropriated for inflation for this purpose (for transfer to Item 6110-224-001).....	541,000	
(b) 10.30—Other Compensatory Programs.....		10,723,000

Item		Amount
(1)	10.30.050—American Indian Education Centers, in lieu of the amount which otherwise would be appropriated for inflation for this purpose (for transfer to Item 6110-151-001)	24,000
(2)	10.30.051—Native American Indian Education, in lieu of the amount which otherwise would be appropriated for inflation for this purpose (for transfer to Item 6110-131-001)	5,000
(3)	10.30.040—Demonstration Programs in Reading and Mathematics, in lieu of the amount which would otherwise be appropriated for inflation for this purpose (for transfer to Item 6110-146-001).....	58,000
(4)	10.30.070—Economic Impact Aid, in lieu of the amount which otherwise would be appropriated pursuant to statute for the purpose of Chapter 1 (commencing with Section 54000) of Part 29 of the Education	

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	Code (for transfer to Item 6110-121-001)	10,636,000	
(c)	10.50—Adult Education.....		12,000,000
	(1) 10.50.010.001—In lieu of the amount which would otherwise be appropriated for the purpose of subdivision (a) of Section 52616 of the Education Code (for transfer to Item 6110-156-001)	11,864,000	
	(2) 10.50.010.002—Adults in Correctional Facilities, in lieu of the amount which otherwise would be appropriated pursuant to statute for the purpose of Section 41841.5 of the Education Code (for transfer to Item 6110-158-001)	136,000	
(d)	10.60—Special Education.....		91,563,000
	(1) 10.60.000—Special Education Program for Exceptional Children, in lieu of the amount which would otherwise be appropriated for the purpose of Section 56723 of the Education Code (for transfer to Item 6110-161-001).....	89,677,000	
	(2) 10.60.001—Special Education, in lieu of the amount which would oth-		

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	erwise be appropriated for the purpose of Section 56782 of the Education Code (for transfer to Item 6110-161-001).....	1,886,000	
(dx)	10.70—Vocational Education.....		43,000
	(1) 10.70.010—Vocational Education, Student Organizations, in lieu of the amount which would otherwise be appropriated for inflation for this purpose (for transfer to Item 6110-118-001)	3,000	
	(2) 10.70.080—Agricultural Vocational Education, in lieu of the amount which would otherwise be appropriated for inflation for this purpose (for transfer to Item 6110-167-001)	40,000	
(e)	10.80—Special Instructional Programs.....		1,217,000
	10.80.010—Gifted and Talented Program, in lieu of the amount which would otherwise be appropriated for purposes of Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code, (for transfer to Item 6110-124-001).....	1,217,000	

Item		Amount
(ea) 20.10.025—Educational Technology, in lieu of the amount which would otherwise be appropriated for inflation for this purpose (for transfer to Item 6110-181-001)		171,000
(eb) 20.10.025.001—Institute for Computer Technology, in lieu of the amount which would otherwise be appropriated for inflation for this purpose (for transfer to Item 6110-180-001)		4,000
(ec) 20.10.035—Miller-Unruh Reading Programs, in lieu of the amount which would otherwise be appropriated for inflation for this purpose (for transfer to Item 6110-126-001)		262,000
(f) 20.20.020—Instructional Materials.		5,330,000
(1) 20.20.020.001—Instructional Materials Management and Distribution for Kindergarten through grade 8, in lieu of the amount which would otherwise be appropriated for inflation adjustments pursuant to Section 60246 of the Education Code (for transfer to Item 6110-186-001)	4,254,000	
(2) 20.20.020.002-Instructional Materials Management and Distribution for grades 9 through 12, in lieu of the amount which otherwise would be appropriated pursuant to statute for this purpose (for		

Item		Amount
	transfer to Item 6110-187-001) 1,076,000	
(g)	20.40.070—Opportunity Programs Incentives, in lieu of the amount which otherwise would be appropriated for inflation for this purpose (for transfer to category (b) of Item 6110-119-001)	25,000
(ga)	20.40.090—Specialized Secondary Programs, in lieu of the amount which would otherwise be appropriated for inflation for this purpose (for transfer to Item 6110-119-001(c))	28,000
(gb)	20.40.100—Pupil Dropout Prevention Program, in lieu of the amount which otherwise would be appropriated for inflation for this purpose (for transfer to Item 6110-120-001)	148,000
(gc)	20.60—Improving School Effectiveness	17,448,000
	(1) 20.60.010.001-Administrator Training and Evaluation Program, in lieu of the amount which otherwise would be appropriated pursuant to statute for inflation for this purpose (for transfer to Item 6110-191-001(a)) 222,000	
	(1.5) 20.60.020.002—Tenth Grade Counseling Program, in lieu of the amount which otherwise would be appropriated for inflation for this purpose (for transfer to Item 6110-109-001) 97,000	

Item		Amount
	(2) 20.60.030.010-School Improvement Program for Grades K–6, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to category (a) of Item 6110-116-001)	10,914,000
	(3) 20.60.030.020-School Improvement Program for Grades 7–12, in lieu of the amount which otherwise would be provided pursuant to statute for this purpose (for transfer to category (b) of Item 6110-116-001).....	2,126,000
	(4) 20.60.050.001-Mentor Teacher Program, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-191-001(b)) ..	2,966,000
	(5) 20.60.050.002-Beginning Teacher Support and Assessment, in lieu of the amount which otherwise would be provided pursuant to statute for infla-	

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	tion for this purpose (for transfer to Item 6110-191-001(g))	137,000
(6)	20.60.050.004—Staff Development Plans, Regional and Subject Centers, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-191-001(j)) ...	885,000
(7)	20.60.070.000-Staff Development, Bilingual Teacher Training, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-191-001(c))...	39,000
(8)	20.60.110.000-Reader Services for Blind Teachers, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-191-001(f)) ...	10,000
(11)	20.60.140.000-Staff Development, Teacher Improvement (DOE/CSU), in lieu of the amount which	

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	otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-191-001(e)) .. 52,000	
(gd)	20.80—Supplemental Grants..... This category is in lieu of the amount which would otherwise be appropriated for inflation for the purpose of Sections 54760 and 54761 of the Education Code (for transfer to Item 6110-108-001).	2,268,000
(h)	30.10—Child Care Programs.....	14,735,000
	(1) 30.10.010.000—Special Programs—Preschool education, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001) 1,663,000	
	(2) 30.10.020.001—General child development programs, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001). 9,307,000	
	(3) 30.10.020.002—Campus children's centers, in lieu of the amount which otherwise would be provided pursuant	

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	to statute for inflation for this purpose (for transfer to Item 6110-196-001)	285,000
(4)	30.10.020.003—School age parenting and infant development, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001)	310,000
(5)	30.10.020.004—Migrant daycare, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001)	327,000
(6)	30.10.020.005—Special allowances for rent, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001)	20,000
(7)	30.10.020.006—Special allowances for handicapped, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for trans-	

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	fer to Item 6110-196-001)	33,000
(8)	30.10.020.007—Alternative payment program, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001)	1,478,000
(9)	30.10.020.008—Resource and referral, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001)	341,000
(10)	30.10.020.009—Campus child care tax bailout, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001)	187,000
(11)	30.10.020.010—Protective services, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001)	47,000

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(12) 30.10.020.015—Extended day care, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001).....	718,000		
(13) 30.10.020.018—Exceptional needs, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-196-001).....	19,000		
(i) 30.20—Child Nutrition.....		2,102,000	
(1) 30.20.010—Child Nutrition, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-201-001 (a)).....	2,095,000		
(2) 30.20.020—Child Nutrition, Pregnant/Lactating Minors, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-201-001 (b)).....	7,000		

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(j) 41.00—Intergenerational Programs ..... This category is in lieu of the amount which would otherwise be appropriated for inflation for this purpose (for transfer to Item 6110-128-001.	2,000	
Provisions:		
1. Of the amount appropriated in this item, $24,989,000 is in satisfaction of the Proposition 98 minimum funding requirements for the 1988–89 fiscal year.		
6110-227-001—For local assistance, Department of Education, for cost-of-living increases to be transferred to, in lieu of the amount which otherwise would be provided pursuant to statute, and in augmentation of the respective appropriations by the State Controller upon enactment in accordance with the following		249,000
Schedule:		
(a) 10.60—Special Education:		
(1) In lieu of the amount which would otherwise be appropriated for the purpose of Section 56723 of the Education Code (for transfer to Item 6110-160-001)	6,000	
(b) 20.60—Improving School Effectiveness:		
(1) 20.60.120.000—Staff Development, International Studies, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-192-001(a))	29,000	
(2) 20.60.125—Geog. Education Alliances, in lieu of the amount which would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-192-001(b))	3,000	
(3) 20.60.155—Regional Resource Science Center, in lieu of the amount which otherwise		

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	would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-192-001(c))	16,000
(c)	30.20—Child Nutrition:	
(1)	30.20.010—Child Nutrition, in lieu of the amount which otherwise would be provided pursuant to statute for inflation for this purpose (for transfer to Item 6110-202-001)	195,000

6110-401—For maintenance of accounting records by the State Controller's office and the Department of Education or any other agency maintaining such records, appropriations made in this act for agencies 6110 (Department of Education) and 6120 (State Library) are to be recorded under agency 6100 (Department of Education).

6110-402—Notwithstanding any provision of law to the contrary, no funds appropriated by this act, or by any act enacted prior to the enactment of this act, shall be, in the absence of a court order, deemed appropriated or available for expenditure for purposes of claims for vocational education average daily attendance arising from Section 46140 of the Education Code as it read prior to the enactment of Chapter 1230 of the Statutes of 1977.

6110-490—Reappropriation, Department of Education. Notwithstanding any other provision of law, the balances of the appropriations provided in the following citation, are reappropriated for the purposes provided for in the appropriations and any additional purposes provided in this section, and shall be available for encumbrance and expenditure until June 30, 1991:

001—General Fund

(1) Item 6110-224-001 (a), Budget Act of 1989, 10.10.950—School Apportionments (year-round school incentive payments).

(2) Item 6110-224-001 (b), Budget Act of 1989, 10.10.020—Year-Round School Demonstration Project (Orchard Plan).

(3) Section 12.31, Budget Act of 1989 (K–12 education share), up to $120,000,000.

(4) Item 6110-191-001 (b), Budget Act of 1989, 20.60.50.001—Mentor Teacher Program.

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Provisions:

1. Of the amount reappropriated by category (1) of this item, $45,000 shall be available for the purpose of providing year-round school incentive payment funds to the Chula Vista Elementary School District pursuant to Section 42250.3 of the Education Code, notwithstanding the application and processing deadlines set forth in category (a) of Item 6110-224-001 of the Budget Act of 1989. The district shall, instead, submit an application for funding by September 1, 1990, and, by no later than October 4, 1990, the Office of Local Assistance shall certify the district claim, if otherwise eligible, to the Superintendent of Public Instruction.
2. Of the amount reappropriated by category (1) of this item, $23,000 shall be for the purpose of providing year-round school incentive payment funds to the Palmdale School District pursuant to Section 42250 of the Education Code, notwithstanding the application and processing deadlines set forth in category (a) of Item 6110-224-001 of the Budget Act of 1989. The district shall, instead, submit an application for funds by September 1, 1990, and, by no later than October 4, 1990, the Office of Local Assistance shall certify the district claim, if otherwise eligible, to the Superintendent of Public Instruction.
3. Of the amount reappropriated by category (2) of this item, $60,000 shall be available from category (b) of Item 6110-224-001 of the Budget Act of 1989, to provide funds to a fifth school district for the costs of designing and planning an Orchard Plan Demonstration Project. The project shall be operated by that district pursuant to Section 37303 of the Education Code, notwithstanding the deadlines set forth in that section.
6. Of the amount reappropriated by category (3) of this item, $119,200,000 shall be available from Section 12.31 of the Budget Act of 1989 to augment Item 6110-226-001 of this act.
7. Of the amount reappropriated by category (4) of this item, $6,000,000 shall be for pending legislation (Senate Bill 1274 of the 1989–90 Regular Session) to restructure K–12 schools.

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8. Of the amount reappropriated by category (3) of this item, $800,000 shall be available from Section 12.31 of the Budget Act of 1989 for pending legislation (Senate Bill 1274 of the 1989–90 Regular Session) to restructure K–12 schools.		
6120-011-001—For support of Department of Education, California State Library, Division of Libraries, and California Library Services Board		11,337,000
Schedule:		
(a) 50-Library Services	13,020,000	
(b) Reimbursements	−22,000	
(c) Amount payable from the Federal Trust Fund (Item 6120-011-890)	−1,661,000	
6120-011-890—For support of Department of Education, for payment to Item 6120-011-001, payable from the Federal Trust Fund		1,661,000
6120-211-001—For local assistance, Department of Education, California State Library, Program 50.20—Statewide Library Support and Development		14,244,000
Schedule:		
a) 50.20.010—California Literacy Campaign	4,328,000	
b) 50.20.020—Families for Literacy Program	628,000	
c) 50.20.030—Direct Loan and Interlibrary Loan Programs	5,538,000	
d) 50.20.040—Computerized Data Base pursuant to Education Code Section 18767	549,000	
e) 50.20.050—California Library Services Act pursuant to Chapter 4 (commencing with Section 18700) of Part 11 of the Education Code	3,201,000	
Provisions:		
1. Should the funds appropriated in Schedule (c) be insufficient to fully cover all transactions under the Direct Loan and Interlibrary Loan programs of the California Library Services Act, funding shall be prorated such that expenditures for the program are within the appropriation made in Schedule (c) of this item.		
2. Of the amount appropriated in Schedule (a) for the California Literacy Campaign, no funds shall be expended without approval of the Director of Finance for purposes other than direct		

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grants to libraries according to the five-year funding formula used by the State Library in the 1989–90 fiscal year. Approval of the director may not be effective sooner than 30 days after notification to the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.		
6120-211-890—For local assistance, Department of Education, California State Library, Program 50.20—Statewide Library Support and Development, payable from the Federal Trust Fund		12,000,000
6120-221-001—For local assistance, Department of Education, California State Library, Program 50.20—Statewide Library Support and Development—Public Library Foundation Program		20,600,000
6120-495—Reversion, Department of Education. As of June 30, 1990, the amount of the appropriation provided in the following citation shall revert, at a minimum, to the fund balance of the fund from which the appropriation was made;		
001-General Fund		
Item 6120-211-001, Budget Act of 1989 Statewide Library Support and Development	1,366,000	
6255-001-001—For state operations, California State Summer School for the Arts		0
Schedule:		
(a) 10-California State Summer School for the Arts	1,203,000	
(b) Reimbursements from private donations and fees	−607,000	
(c) Less allocation from Department of Education, Item 6110-001-001	−596,000	
6320-001-001—For support of California State Council on Vocational Education		104,000
Schedule:		
(a) 10-State Council on Vocational Education	329,000	
(b) Amount payable from the Federal Trust Fund (Item 6320-001-890)	−225,000	
6320-001-890—For support of California State Council on Vocational Education, for payment to Item 6320-001-001, payable from the Federal Trust Fund		225,000

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6330-001-890—For support of the California Occupational Information Coordinating Committee, payable from the Federal Trust Fund		210,000
Schedule:		
(a) 10-California Occupational Information Coordinating Committee	220,000	
(b) Reimbursements	−10,000	
6350-101-001—For local assistance, School Facilities Aid Program (Proposition 98), for transfer to the State School Deferred Maintenance Fund		23,000,000

Provisions:

1. These funds shall be available for funding of applications received by the Office of Local Assistance for the purposes of payments for K–12 school deferred maintenance projects pursuant to Sections 39619 and 39619.2 of the Education Code.
2. By September 1, 1990, the Office of Local Assistance (OLA) shall submit a revised work plan for the School Facilities Inventory (SFI) program which encompasses a staged approach for data collection and/or verification, assumes that at least 90 percent of all school districts shall participate in the program, and includes the following elements:
   (a) An identification of the information to be collected or verified at each stage.
   (b) A proposed redesign of both the phase III data collection instrument and the report used by the office to verify the accuracy of data reported by districts in phase III or in phase III as modified.
   (c) Start dates; completion dates; measurable, quarterly milestones; staffing requirements; and detailed descriptions of the steps the OLA shall take to accomplish the following:
      (1) Obtain and process phase III reports, as modified, from phase III nonparticipants and verify the accuracy of phase III data.
      (2) Correct data entry and SFI system programming errors.
      (3) Test the reliability of SFI district enrollment projections against the Department of Finance's enrollment projections by county.

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(4) Test the database to determine whether it can be used to respond to ad hoc questions developed by the office in anticipation of their being asked by SFI users.		
6350-111-973—For transfer to the General Fund on June 30, 1990, the unliquidated balance from the State Asbestos Abatement Fund		(3,994,000)
6360-001-407—For support of Commission on Teacher Credentialing, payable from the Teacher Credentials Fund		9,108,000
Schedule:		
(a) 10-Standards for Preparation and Licensing of Teachers	9,108,000	
(b) 10.40.010-Departmental Administration	2,004,000	
(c) 10.40.020-Distributed Departmental Administration	−2,004,000	
Provisions:		
1. Pursuant to Chapter 1355, Statutes of 1988, $1,344,000 of the funds appropriated in this item are for a joint study of alternative models of beginning teacher support and assessment by the Commission on Teacher Credentialing and the Department of Education (DOE). The study shall establish alternative models of beginning teacher support and assessment mechanisms in school districts and evaluate the costs and benefits of the alternative models. These funds shall be expended only upon development of a joint program and expenditure plan by the commission and the Department of Education and approval of the plan by the Director of Finance.		
6360-001-408—For support of Commission on Teacher Credentialing, payable from the Test Development and Administration Account of the Teacher Credentials Fund		2,956,000
Schedule:		
(a) 10-Standards for Preparation and Licensing of Teachers	2,956,000	
6420-001-001—For support of California Postsecondary Education Commission		3,631,000
Schedule:		
(a) 100000-Personal Services	3,015,000	
(b) 300000-Operating Expenses and Equipment	958,000	

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(c) Reimbursements	−20,000	
(d) Amount payable from the Federal Trust Fund (Item 6420-001-890)	−182,000	
(e) Amount payable from the Special Deposit Fund (Education Code Section 51878.5)	−140,000	
6420-001-890—For support of California Postsecondary Education Commission, for payment to Item 6420-001-001, payable from the Federal Trust Fund		182,000
Schedule:		
6420-011-001—For support of California Postsecondary Education Commission pursuant to Chapter 1334 of the Statutes of 1989, California Planning Commission for Educational Technology, for transfer to the Special Deposit Fund		90,000
6420-101-890—For Local assistance, California Postsecondary Education Commission, payable from the Federal Trust Fund		4,127,000
6440-001-001—For support of University of California		2,106,921,000
Schedule:		
(a) Support	2,040,817,000	
(b) Charles Drew Medical Program	6,795,000	
(c) Podiatry Program	926,000	
(d) Mathematics, Engineering and Science Achievement (MESA)	1,803,000	
(e) Acquired Immune Deficiency Syndrome (AIDS) Research	8,675,000	
(f) Energy Service Contracts	2,294,000	
(g) Area Health Education Center	200,000	
(h) Institute of Global Conflict and Cooperation	550,000	
(i) Center for Cooperatives	350,000	
(j) Teaching Hospitals	3,000,000	
(k) Student Financial Aid	41,511,000	

Provisions:

1. The appropriations from these funds are exempt from Section 31 of this act.
2. None of the funds appropriated may be expended to initiate major capital outlay projects by contract without prior legislative approval, except for cogeneration and energy conservation projects. Exempted projects shall be reported under the provisions of Section 28 of this act.
3. The funds appropriated in category (b) are for support of University of California program of clinical health sciences education, research, and

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public service, conducted in conjunction with the Charles R. Drew Postgraduate Medical School, as provided for in Sections 1, 2, and 3 of Chapter 1140 of the Statutes of 1973.

4. The University of California shall ensure by adequate controls that funds appropriated by Schedule (b) are expended solely for the support of such programs.
5. The funds appropriated by Schedule (c) are for support of a program of basic and clinical health science education and primary health care delivery research in the field of podiatry, University of California, to be conducted in conjunction with the California College of Podiatric Medicine as provided for in Sections 1 and 4, inclusive, of Chapter 1497, Statutes of 1974.
6. Of the amount in Schedule (a), $2,629,957 shall be available for expenditure only for support of the Northern and Southern Occupational Health Centers as established by a contract entered into with the Department of Industrial Relations pursuant to Section 50.8 of the Labor Code.
7. $4,080,000 of the amount in Schedule (a) shall be available only for microelectronics research, and shall be expended subject to the oversight and policy direction of a committee, to be appointed by the president of the university and to consist of equal numbers of state government, university, and electronics or semiconductor, or both, industry representatives, for the purposes of advancing appropriate research and graduate education in microelectronics research, including innovative research in microelectronics technology, its applications in computer and information sciences, and its necessary antecedents in other physical science disciplines.

   The expenditure of the $4,080,000 available for microelectronic research shall also be subject to the following conditions:

   (1) The university may utilize no more than $204,000 of the $4,080,000 for administrative and related costs.
   (2) The university may utilize a portion of the $4,080,000 as support for graduate student education and related professional teaching support.

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(3) To the extent possible, expenditures subject to the limits in paragraphs (1) and (2) shall be reimbursed through the joint research projects specified in paragraph (4).

(4) The balance of the appropriation shall be used to fund industry/academic joint research projects for the policy purposes noted above, on a project-by-project basis, with a one-to-one match in total from the $4,080,000 and an industry contribution respectively.

8. No funds appropriated by this act may be used by the Regents of the University of California to reclassify instructional capacity space, administrative space, library space, or faculty offices to other uses unless and until any such proposed reclassification is first approved by the Department of Finance and 30 days' written notification is provided to the Chairperson of the Joint Legislative Budget Committee or his or her designee, or not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine.

9. Since it is the intent of the Legislature in enacting this act that no qualified student be denied admission to the University of California because of a budget deficiency caused by unanticipated additional enrollments, the Director of Finance may, following the adoption of a resolution by the Regents of the University of California declaring an enrollment emergency, authorize the accelerated expenditure of amounts budgeted for the university, in the form of an agreement to seek a supplementary appropriation from the General Fund to the extent necessary to ensure that all qualified students can be admitted when the Director of Finance certifies that the systemwide enrollment of the University of California exceeds by 2 percent or more the enrollment upon which the budget for the university was based; provided, that no increased expenditure may exceed $6,000,000 in the aggregate for both the University of California and the California State University or be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which con-

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siders appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine.

In the event that the systemwide enrollment of the University of California is under the budgeted enrollment by more than 2 percent, such excess shall be unallocated by the Director of Finance. Unallocated funds may be reallocated to preclude layoffs only after the Director of Finance has approved such action and shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine.

For purposes of this provision, graduate enrollments of the University of California shall be excluded from all calculations.

10. The funds appropriated in Category (j) are for support of the teaching hospitals at Irvine, San Diego, and Sacramento, upon order of the Director of Finance, to offset any net losses incurred by the teaching hospitals for the 1989–90 fiscal year.
11. The funds appropriated in Category (k) are for support of Program 45, Student Financial Aid, to provide financial aid to needy students attending the University of California, according to the nationally accepted needs analysis methodology.
12. It is the intent of the Legislature that the Regents of the University of California take appropriate action to provide a more equitable sharing of the cost of education at the University. Accordingly, it is the intent of the Legislature that student fees increase by 10 percent for resident students, and increase by $617 per student per year for nonresident students, and increase to $2,000 per year for graduate law and graduate medical students.

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6440-001-046—For support of University of California, Institute of Transportation Studies, payable from the Transportation Planning and Development Account, State Transportation Fund	956,000
6440-001-144—For support of University of California, Research in Mosquito Control, payable from the California Water Fund	100,000
6440-001-234—For support of the University of California, payable from the Research Account, Cigarette and Tobacco Products Surtax Fund	31,949,000
6440-001-791—For support of University of California, payable from the June 1990 Higher Education Capital Outlay Bond Fund	3,000,000
Provisions:	
1. The funds appropriated by this item are for the purpose of removing asbestos-containing materials.	
2. The University of California shall obtain air samples of all spaces that are scheduled to undergo asbestos removal. In the contract provisions for asbestos removal, contractors shall be required to show that, upon completion of the project, the air-borne asbestos level is at or below either the limits allowed by the governing regulatory agency or the level identified from the air sample taken prior to initiating the project, whichever is lower.	
6440-001-814—For support of University of California, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5 as enacted by the voters in Proposition 37 at the November 1984 General Election, payable from the California State Lottery Education Fund	26,006,000
Provisions:	
1. All funds received pursuant to Proposition 37 that are allocable to the University of California pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item.	
6440-002-001—For support of University of California.	(55,629,000)
Schedule:	
(a) First amortization payment on the deferral of the 1989–90 employer's retirement contribution.	(5,305,000)

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(b) 1990–91 employer's retirement contribution	(50,324,000)

Provisions:

1. Notwithstanding Section 2.00 of this act, the funds appropriated by this item are not available for expenditure or encumbrance prior to July 1, 1991. Claims for these funds shall be submitted by the University of California on or after July 1, 1991, and before October 1, 1991, and shall be accounted as expenditures by the State Controller on or subsequent to July 1, 1991.
2. No reserve may be established by the State Controller for this appropriation before July 1, 1991.

6440-003-001—For support of the University of California, for payment of lease-purchase payments no sooner than necessary to allow the university to make the required lease-purchase payment 24,500,000

6440-011-001—For support of University of California, for augmentation for employee compensation, faculty salary increases 22,585,000

Provisions:

1. The funds herein appropriated are for compensation increases and increases in benefits related thereto to be allocated by the Department of Finance, in augmentation of Item 6440-001-001 or allocations for support or for other purposes, so that sufficient money will be available for each faculty employee of the University of California whose compensation, or portion thereof, is chargeable to the General Fund, to receive any such increases provided by the Regents of the University of California.
2. Amounts proposed for faculty salary increases constitute the total salary increase for all faculty employees of the University of California for the 1990–91 fiscal year. Funds appropriated for employee compensation increases are to be allocated by executive order of the Department of Finance to the Regents of the University of California for employees of the University of California, in accordance with salary and benefit schedules established by the Regents of the University of California.
3. The funds appropriated in this item are sufficient to provide a faculty salary increase averaging 4.8 percent, effective January 1, 1991.

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6440-012-001—For support of University of California, for augmentation for employee compensation, nonfaculty salary increases..... 18,778,000

Provisions:

1. The funds herein appropriated are for compensation increases, increases in benefits related thereto, to be allocated by the Department of Finance, in augmentation of Item 6440-001-001 or allocations for support or for other purposes, so that sufficient money will be available for each nonfaculty employee of the University of California whose compensation, or portion thereof, is chargeable to the General Fund, to receive any such increases provided by the Regents of the University of California.
2. Amounts proposed for nonfaculty salary increases constitute the total salary increase for all nonfaculty employees of the University of California for the 1990–91 fiscal year. Funds appropriated for employee compensation increases are to be allocated by executive order of the Department of Finance to the Regents of the University of California for employees of the University of California, in accordance with salary and benefit schedules established by the Regents of the University of California.
3. The funds appropriated in this item are sufficient to provide a nonfaculty salary increase averaging up to 5.0 percent, effective January 1, 1991.

6440-013-001—For support of University of California, for augmentation for employee and annuitant compensation, staff benefits..... 12,550,000

Provisions:

1. The funds herein appropriated are for staff benefit increases, to be allocated by the Department of Finance, in augmentation of Item 6440-001-001 or allocations for support or for other purposes, in such amounts as will make sufficient money available for each employee and annuitant of the University of California, whose compensation or portion thereof is chargeable to the General Fund, to receive any such increases provided by the Regents of the University of California.
2. Amounts proposed for employee and annuitant benefit increases constitute the total increase in

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benefits for all employees and annuitants of the University of California for the 1990–91 fiscal year. Funds appropriated for employee and annuitant compensation increase are to be allocated by executive order of the Department of Finance to the Regents of the University of California, in accordance with benefit schedules established by the Regents of the University of California.		
3. The funds appropriated in this item are sufficient to maintain faculty, nonfaculty and annuitant benefits at the same rate of increase as for civil service and related employees.		
6440-301-525—For capital outlay, State Public Works Board, payable from the High Technology Education Revenue Bond Fund from the sale of bonds, negotiable notes, or negotiable bond anticipation notes for the construction of University of California facilities pursuant to Chapter 3.5 (commencing with Section 15820) of Part 10b of Division 3 of Title 2 of the Government Code		4,700,000
Schedule:		
Santa Barbara Campus:		
(2.1) 99.08.030 Physical Sciences Building—Additional construction	3,200,000	
Los Angeles Campus:		
(3.1) 99.04.010 School of Engineering and Applied Sciences, Hazardous Gas Storage Facility—preliminary plans, working drawings, and construction	1,500,000	
Provisions:		
1. In addition to the cost of construction, the State Public Works Board may authorize any additional amounts necessary to pay the costs of financing, including interest during construction of the project, a reasonably required reserve fund, and the cost of issuance of permanent financing.		
6440-301-660—For capital outlay, State Public Works Board, payable from the Public Buildings Construction Fund from the sale of bonds, negotiable notes or negotiable bond anticipation notes for the construction of University of California instructional facilities pursuant to Government Code Section 15820.50, et seq.		99,572,000

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Schedule:		
Berkeley Campus:		
(1) 99.01.015-Life Sciences Building Renovation for Ecology and Evolutionary Biology—Construction..	6,090,000	
Davis Campus:		
(2) 99.03.075-Engineering Unit 2—Construction	37,859,000	
Irvine Campus:		
(3) 99.09.065-Science Library—Construction	29,797,000	
Los Angeles Campus:		
(4) 99.04.055-Anderson Graduate School of Management—Construction	25,826,000	
Provisions:		
1. In addition to the cost of construction, the State Public Works Board may authorize any additional amounts necessary to pay the costs of financing, including interest during construction of the project, a reasonably required reserve fund and the cost of issuance of permanent financing.		
6440-301-791—For capital outlay, University of California, payable from the June 1990 Higher Education Capital Outlay Bond Fund		126,662,000
Schedule:		
Universitywide:		
(1) 99.00.005-Minor Capital—Preliminary plans, working drawings, construction and equipment.....	6,350,000	
(2) 99.00.010-Project programming and Preliminary plans.....	1,000,000	
(3) 99.00.025-Southern Regional Library Facility, Phase 2—Preliminary plans.....	413,000	
Berkeley Campus:		
(4) 99.01.075-Handicapped Access Improvements, step 5—Construction	1,399,000	
(5) 99.01.085-Doe and Moffit Libraries Addition and seismic improvements—Working drawings.....	2,640,000	
San Francisco Campus:		
(6) 99.02.040-Library release space improvements—Preliminary plans and working drawings	1,905,000	

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(7) 99.02.045-Medical Sciences Building Electrical System improvements—Working drawings and construction	960,000
(8) 99.02.050-Parnassus Fire Alarm and Life Safety System—Preliminary plans and working drawings	467,000
(9) 99.02.055-Parnassus Fire Protection Water Supply System—Preliminary plans	355,000
Davis Campus:	
(10) 99.03.070-Electrical System Modification and Expansion—Construction	1,484,000
(11) 99.03.090-Social Sciences and Humanities Building—Preliminary plans	840,000
(12) 99.03.095-Campus Chilled Water Expansion, Phase 3—Preliminary plans and working drawings	449,000
(13) 99.03.100-Bodega Marine Laboratory Expansion—Preliminary plans	166,000
Irvine Campus:	
(14) 99.09.045-Biological Sciences Unit 2—Equipment	3,924,000
(15) 99.09.050-Physical Sciences Unit 1 Renovation—equipment	2,271,000
(16) 99.09.060-Steinhaus Hall Renovation—Construction	12,037,000
(17) 99.09.075-Central Plant Chiller, Step 2—Construction	1,854,000
(18) 99.09.080-Engineering Unit 2—Working drawings	1,341,000
(19) 99.09.085-Engineering Unit 1, Renovation—Preliminary plans and working drawings	311,000
Los Angeles Campus:	
(20) 99.04.020-School of Engineering and Applied Sciences Retrofit—Construction	7,498,000
(21) 99.04.060-Powell Library Seismic Renovation—Working drawings.	1,951,000
(22) 99.04.065-Chemistry/Biological Sciences, Young Hall East Renovation—Preliminary plans	932,000

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(23) 99.04.070-Electrical Distribution System, Expansion, Step 3—Preliminary plans and working drawings	260,000
Riverside Campus:	
(24) 99.05.040-Electrical Distribution System, Phase 1—Construction	2,246,000
(25) 99.05.045-Soils and Plant Nutrition Building Seismic Upgrade and Remodel—Working drawings	235,000
(26) 99.05.050-Engineering Science Building, Unit 1—Preliminary plans	1,381,000
(27) 99.05.055-Central Utility Plant Boiler Renewal, Phase 2—Construction	1,802,000
San Diego Campus:	
(28) 99.06.045-Central Library Addition—Construction and equipment	6,522,000
(29) 99.06.060-Handicapped Access Improvements, Step 2—Construction	1,170,000
(30) 99.06.065-Undergraduate Sciences Building Renovation and Seismic Corrections—Equipment	1,332,000
(31) 99.06.070-Sciences Building—Construction	42,072,000
(32) 99.06.080-Visual Arts Facility—Working drawings	405,000
(33) 99.06.085-Engineering Building, Unit 2—Preliminary plans	937,000
(34) 99.06.090-Campus Plant Equipment Improvements 1—Working drawings and construction	6,296,000
(35) 99.06.095-Campus Services Complex, Phase 2—Working drawings.	258,000
Santa Barbara Campus:	
(36) 99.08.040-Environmental Health and Safety Facility, Phase 2—Preliminary plans and working drawings	91,000
Santa Cruz Campus:	
(37) 99.07.015-Handicapped Access Improvements, Step 4—Construction	404,000

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(38)	99.07.050-College Nine and Ten Academic Facilities, Phase I—Working drawings and construction	8,911,000
(39)	99.07.055-Science Library Released Space Alterations—Working drawings and construction	975,000
(40)	99.07.060-Music Facility—Preliminary plans	692,000
(41)	99.07.065-Central Heating Plant Expansion—Preliminary plans and working drawings	66,000
	Agriculture and Natural Resources:	
(42)	99.10.015-Kearney Agriculture Center Postharvest Evaluation Facility—Working drawings	60,000

6440-311-525—For capital outlay, State Public Works Board, payable from the High Technology Education Revenue Bond Fund from the sale of bonds, negotiable notes or negotiable bond anticipation notes for the construction of University of California facilities pursuant to Chapter 3.5 (commencing with Section 15820) of Part 10b of Division 3 of Title 2 of the Government Code 785,000

Schedule:

Davis Campus:

(1.1) 99.03.010-Food and Agricultural Sciences Building—Additional construction 785,000

Provisions:

1. The funds included in this item are appropriated for the sole purpose of providing expenditure authority for the unliquidated balance of the proceeds of bond anticipation notes previously issued for construction of the Davis Food and Agricultural Sciences Building pursuant to appropriation authority provided by Item 6440-301-993 of the Budget Act of 1983, as added by Section 18 of Chapter 1095 of the Statutes of 1983. The undisbursed balance of this item shall revert back to the fund balance on June 30, 1991.

6440-401—Authorization, University of California. Pursuant to Chapter 3.6 (commencing with Section 15820.15) of Part 10b of Division 3 of the Government Code, the following projects are authorized:

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Schedule:

(a) Santa Barbara Campus-Institute for Theoretical Physics Building.

(b) San Diego Campus-Institute for Geophysics and Planetary Physics Building, Unit 2.

(c) San Diego Campus-Molecular Biology Research Facility, Unit 3.

(d) Los Angeles Campus-Institute of Plasma and Fusion Research/Center for Advanced Accelerators.

6440-490—Reappropriation, University of California. Notwithstanding any other provision of law, the balance, as of June 30, 1990, of the appropriation provided in the following citation, is reappropriated for replacement of instructional equipment, deferred maintenance, and special repair projects, and shall be available for encumbrance and expenditure until June 30, 1991:

001—General Fund

(1) Item 6440-001-001, Budget Act of 1989

Provisions:

1. The University of California shall report to the Department of Finance and the Joint Legislative Budget Committee the amount of the unencumbered balance, on June 30, 1990, of Item 6440-001-001 of the Budget Act of 1989, by September 30, 1990, and the expenditures made pursuant to this item by September 30, 1991.
2. The University of California shall return to the State Controller, state general funds appropriated in the Budget Act of 1989 in an amount equal to the General Fund portion of federal contract and grant overhead funds in excess of the 1989–90 fiscal year budgeted amount, except that up to $250,000 of the excess shall be retained by the University of California for sustainable agriculture competitive grants and information development projects.

6440-491—Reappropriation, University of California. Notwithstanding any other provision of law, the balance, as of June 30, 1990, of the appropriation provided in the following citation is reappropriated and shall be available for encumbrance and expenditure until June 30, 1991:

001 General Fund

(1) Item 6440-003-001, Budget Act of 1989

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6440-492—Reappropriation, University of California. The balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations: 525—High Technology Education Revenue Bond Fund: Item 6440-301-525, Budget Act of 1989: (2) 99.08.030-Santa Barbara, Physical Sciences Building. 785—Higher Education Capital Outlay Bond Fund: Item 6440-301-785, Budget Act of 1988: (38) 99.07.045-Santa Cruz, Preliminary plans and working drawings, Meyer Drive extension, Phase I	
6600-001-001—For support of Hastings College of the Law	12,719,000
Provisions: 1. The appropriations from these funds are exempt from Section 31.00 of this act. 2. It is the intent of the Legislature that fees be increased to provide a more equitable sharing of the cost of education at Hastings College of the Law. Accordingly, this item has been adjusted to reflect a fee increase to $2,000 per student per year, and a $617 per student per year increase for nonresident students.	
6600-001-791—For support of Hastings College of the Law, payable from the June 1990 Higher Education Capital Outlay Bond Fund	70,000
6600-001-814—For support of Hastings College of the Law, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5 as enacted by the voters in Proposition 37 at the November 1984 General Election, payable from the California State Lottery Education Fund	236,000
Provisions: 1. All funds received pursuant to Proposition 37 that are allocable to the Hastings College of the Law pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item.	

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6600-006-001—For support of Hastings College of the Law, in addition to, and in augmentation of, Item 6600-001-001, Program 40, Student Services, to provide financial aid to needy students attending Hastings College of the Law, according to the nationally accepted needs analysis methodology 708,000

6600-011-001—For support of Hastings College of the Law, for augmentation for employee compensation, faculty salary increases 175,000

Provisions:

1. The funds herein appropriated are for compensation increases and increases in benefits related thereto, to be allocated by the Department of Finance, in augmentation of Item 6600-001-001 or allocations for support or for other purposes, so that sufficient money will be available for each faculty employee of the Hastings College of the Law whose compensation, or portion thereof, is chargeable to the General Fund to receive any such increases provided by Hastings College of the Law.
2. Amounts proposed for faculty salary increases constitute the total salary increase for all faculty employees of Hastings College of the Law for the 1990–91 fiscal year. Funds appropriated for employee compensation increases are to be allocated by executive order of the Department of Finance to the Directors of Hastings College of the Law for the employees of Hastings College of the Law in accordance with salary and benefit schedules established by the Directors of Hastings College of the Law.
3. The funds appropriated in this item are sufficient to provide a faculty salary increase averaging 4.8 percent, effective January 1, 1991.

6600-012-001—For support of Hastings College of the Law, for augmentation for employee compensation, nonfaculty salary increases..... 130,000

Provisions:

1. The funds herein appropriated are for compensation increases and increases in benefits related thereto, to be allocated by the Department of Finance, in augmentation of Item 6600-001-001 or allocations for support or for other purposes, so that sufficient money will be available for each nonfaculty employee of Hastings College of the Law whose compensation, or portion

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thereof, is chargeable to the General Fund, to receive any such increases provided by Hastings College of the Law.

2. Amounts proposed for nonfaculty salary increases constitute the total salary increase for all nonfaculty employees of Hastings College of the Law for the 1990–91 fiscal year. Funds appropriated for employee compensation increases are to be allocated by executive order of the Department of Finance to the Directors of Hastings College of the Law for the employees of Hastings College of the Law in accordance with salary and benefit schedules established by the Directors of Hastings College of the Law.
3. The funds appropriated in this item are sufficient to provide a nonfaculty salary increase averaging up to 5.0 percent, effective January 1, 1991.

6600-013-001—For support of Hastings College of the Law, for augmentation for employee and annuitant compensation, staff benefits 89,000

Provisions:

1. The funds herein appropriated are for staff benefit increases, to be allocated by the Department of Finance, in augmentation of Item 6600-001-001 or allocations for support or for other purposes, in such amounts as will make sufficient money available for each employee and annuitant of the Hastings College of the Law, whose compensation or portion thereof is chargeable to the General Fund, to receive any such increases provided by the Directors of the Hastings College of the Law.
2. Amounts proposed for employee and annuitant benefit increases constitute the total increase in benefits for all employees of the Hastings College of the Law for the 1990–91 fiscal year. Funds appropriated for employee and annuitant compensation increase are to be allocated by executive order of the Department of Finance to the Directors of the Hastings College of the Law, in accordance with benefit schedules established by the Directors of the Hastings College of the Law.
3. The funds appropriated in this item are sufficient to maintain faculty, nonfaculty, and annu-

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itant benefits at the same rate of increase as for civil service and related employees.

6600-490—Reappropriation, Hastings College of the Law. Notwithstanding any other provision of law, the balance, as of June 30, 1990, of the appropriation provided in the following citation is reappropriated for instructional equipment, deferred maintenance, and special repair projects, and shall be available for encumbrance and expenditure until June 30, 1991:

001—General Fund

(1) Item 6600-001-001, Budget Act of 1989

Provisions:

1. The Hastings College of the Law shall report to the Department of Finance and the Joint Legislative Budget Committee the amount of the unencumbered balance, on June 30, 1990, of Item 6600-001-001 of the Budget Act of 1989, by September 30, 1990, and the expenditures made pursuant to this item by September 30, 1991.

6610-001-001—For support of Trustees of the California State University and the California State University 1,654,973,000

Schedule:

(a) 01-Instruction	1,251,701,000
(b) 03-Public Service	1,251,000
(c) 04-Academic Support	216,365,150
(d) 05-Student Service	177,531,850
(e) 06-Institutional Support	429,471,000
(f) 07-Independent Operations	72,359,000
(g) 11-Provisions for Allocation	−73,595,000
(h) 12.01-Administration	183,872,000
(i) 12.02-Distributed Administration	−183,872,000
(j) Reimbursements	−62,370,000
(k) Amounts payable from the General Fund (Item 6610-010-001)	−357,741,000

Provisions:

1. The funds appropriated in this item shall be subject to the provisions of Section 13320 of the Government Code and applicable Budget Act restrictions with the following exceptions:
   (a) The trustees may transfer excess salary savings funds from the salary savings reserve allotments to expenditure allotments provided such transfers do not exceed 20 percent of salary savings. Excess salary savings

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funds are those in excess of the amount budgeted.

(b) The trustees may approve transfer of funds between one or more of the programs for which funds are appropriated for the support of the California State University.

Any transfer of funds made under the above exceptions shall be reported to the Department of Finance and Joint Legislative Budget Committee within 30 days after the end of each quarter in which such transfer was approved.

2. The funds appropriated in this item may be reallocated upon order of the Trustees of the California State University subject to being reported to the Department of Finance; provided that no instructional faculty positions authorized for the 1990–91 fiscal year shall be used for administration, administrative assistance, department chairmanships, or noninstructional research.
3. No portion of the funds appropriated in this item for instructionally related activities may be expended for intercollegiate athletics.
4. No funds appropriated in this item or Item 6610-021-001, Item 6610-021-036, Item 6610-301-660 or Item 6610-301-791 may be used by the Trustees of the California State University to reclassify instructional capacity space, administrative space, library space, or faculty offices to other uses unless and until any such proposed reclassification is first approved by the Department of Finance and 30 days' written notification is provided to the Chairperson of the Joint Legislative Budget Committee or his or her designee, or not sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.
5. Since it is the intent of the Legislature in enacting this act that no qualified student be denied admission to the California State University because of a budget deficiency caused by unanticipated additional enrollments, the Director of Finance may, following the adoption of a resolution by the Trustees of the California State University declaring an enrollment emergency, authorize the accelerated expenditure of

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amounts budgeted for the state university, in the form of an agreement to seek a supplementary appropriation from the General Fund to the extent necessary to ensure that all qualified students can be admitted when the Director of Finance certifies that the systemwide enrollment of the California State University exceeds by 2 percent or more the enrollment upon which the budget for the state university was based; provided, that no increased expenditure may exceed $6,000,000 in the aggregate for both the California State University and the University of California or be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine.

In the event that the systemwide enrollment of the California State University is under the budgeted enrollment by more than 2 percent, such excess shall be unallocated by the Director of Finance. Unallocated funds may be reallocated to preclude layoffs only after the Director of Finance has approved such action and shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine.

Based upon fall annualized full-time equivalent (FTE) students, all surplus funds withdrawn from any campus consistent with the policy of the California State University (CSU) system due to fluctuations in student enrollments, shall be returned:

(a) To campuses with enrollments in excess of the budgeted level consistent with the CSU policy and

(b) To all campuses for allocation to the programs of "Instruction" and "Academic Support".

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"Surplus" is defined as those funds in excess of that returned to the state pursuant to this section. No exceptions to the above prescribed allocation may be made unless prior approval is given by the Department of Finance and is reported to the Chairperson of the Joint Legislative Budget Committee, and the financial necessity of any such exception shall be identified.

6. The funds appropriated in this item for Program 05—Student Service, to provide financial aid to California State University students, shall be used to provide financial aid to needy students according to the nationally accepted needs analysis methodology.
7. Of the amount appropriated in Schedule (g), $334,000 is available for transfer to the California State University and Colleges Special Projects Fund, pursuant to the provisions of Public Resources Code Section 25008.5, which allows state agencies to retain 50% of the financial benefits realized through energy savings projects.
8. Of the amount appropriated in Schedule (e), $2,391,000 is provided for payment of energy service contracts in connection with the issuance of Public Works Board Energy Efficiency Revenue Bonds (State Pool Program), Series 1986 A.
9. Notwithstanding Chapter 1514, Statutes of 1986, $200,000 of the amount appropriated in Schedule (c) is provided for the Dairy Products Technology Center. None of the funds appropriated may be disbursed unless and until the Chancellor determines that funds from nonstate sources in an amount at least equal to the amount appropriated has been received by California Polytechnic State University, San Luis Obispo.
10. It is the intent of the Legislature that there shall be no layoffs of full-time or part-time faculty or staff as a result of unallocated budget reductions. Curriculum decisions, made upon consultation with the faculty, that may result in staffing changes shall not be subject to this limitation.
15. It is the intent of the Legislature that the Trustees of the California State University take appropriate action to provide a more equitable

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	sharing of the cost of education at the California State University. Accordingly, it is the intent of the Legislature that student fees increase by 10 percent for resident students, and increase by $500 per student per year for nonresident students.	
6610-001-791—For support of Trustees of the California State University and the California State University, payable from the June 1990 Higher Education Capital Outlay Bond Fund		10,600,000
	Provisions: 1. The funds appropriated by this item are for the purpose of removing asbestos-containing materials identified in categories C, D, and F in the CSU Asbestos Abatement Feasibility Study, Composite Report, dated May 31, 1988, or in equivalent categories in subsequent studies. 2. California State University shall obtain air samples of all spaces that are scheduled to undergo asbestos removal. In the contract provisions for asbestos removal, contractors shall be required to show that, upon completion of the project, the airborne asbestos level is at or below either the limits allowed by the governing regulatory agency or the level identified from the air sample taken prior to initiating the project, whichever is lower. 3. Notwithstanding Section 2.00 of this act, the funds appropriated by this item shall be available for expenditure until June 30, 1993.	
6610-001-814—For support of Trustees of the California State University and the California State University, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5, as enacted by the voters in Proposition 37 at the November 1984, general election, payable from the California State Lottery Education Fund.....		(46,234,000)
	Provisions: 1. All funds received pursuant to Proposition 37 that are allocable to the California State University pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item.	

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6610-001-890—For support of Trustees of the California State University and the California State University, payable from the Federal Trust Fund		97,392,000
Provisions:		
1. All funds deposited in the Federal Trust Fund for the California State University for the purposes of this item and that are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item and are exempt from Section 28.00 of this act, pursuant to Education Code Section 89753(a).		
6610-002-001—For support of Trustees of the California State University and the California State University for transfer to and in augmentation of Item 6610-001-001, for the purpose of providing direct costs and administrative overhead expenses for the Assembly, Senate and Executive Fellows program and the Center for California Studies		1,308,000
Schedule:		
(a) Center for California Studies —Fellows Program	146,000	
(b) Center for California Studies —Other	25,000	
(c) Assembly Fellows	426,000	
(d) Senate Fellows	426,000	
(e) Executive Fellows	285,000	
6610-003-001—For support of Trustees of the California State University and the California State University for transfer to and in augmentation of Item 6610-001-001, for payment of lease-purchase payments to be allocated upon order of the Director of Finance no sooner than necessary to allow the California State University to make the required lease-purchase payment		7,889,000
6610-006-001—For support of the Trustees of the California State University and of the California State University, for transfer to the Affordable Student Housing Revolving Fund		350,000
Provisions:		
1. The funds appropriated by this item are for the purpose of subsidizing interest costs in connection with bond financing for construction of affordable student housing at the Fullerton and Hayward Campuses in accordance with the provisions of Article 3 (commencing with Section 90085) of Chapter 8 of Part 55 of the Education Code.		

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6610-010-001—For support of Trustees of the California State University and the California State University, for payment to Item 6610-001-001, payable from CSU fees, Uniform Codes Manual revenue account 142800, General Fund 357,741,000

Provisions:

1. All funds received in account 142800 which are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item.

6610-021-001—For support of Trustees of the California State University, and the California State University, in addition to and in augmentation of Item 6610-001-001, Program 06, payable from the General Fund 3,218,000

Schedule:

(a) 06-Institutional Support (deferred maintenance and special repair projects) 3,218,000

Provisions:

1. Notwithstanding the provisions of Section 2.00 of this act, the funds appropriated by category (a) shall be available for expenditure until June 30, 1992.

6610-021-036—For support of Trustees of the California State University, and the California State University, payable from the Special Account for Capital Outlay 3,500,000

Schedule:

(a) 06-Institutional Support (deferred maintenance and special repair projects) 3,500,000

Provisions:

1. Notwithstanding the provisions of Section 2.00 of this act, the funds appropriated by category (a) shall be available for expenditure until June 30, 1992.

6610-032-001—For support of Trustees of the California State University and the California State University, for augmentation for employee compensation, faculty salary increases 24,108,000

Provisions:

1. The funds herein appropriated are for compensation increases and increases in benefits related thereto, to be allocated by the Department of Finance, in augmentation of Item 6610-001-001 or allocations for support or for other purposes,

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in such amounts as will make sufficient money available for each faculty employee, whose compensation, or portion thereof, is chargeable to the General Fund, to receive any such increases provided by the Trustees of the California State University.

2. Amounts proposed for faculty salary increases constitute the total salary increase for all faculty employees of the California State University for the 1990–91 fiscal year. Funds appropriated for employee compensation increase are to be allocated by executive order of the Department of Finance to the Trustees of the California State University in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining in units not yet certified, or in units that are certified but are not bargaining for a 1990–91 memorandum of understanding as of the date of this act, in accordance with salary and benefit schedules established by the Trustees of the California State University.
3. The funds appropriated in this item are sufficient to provide a faculty salary increase averaging 4.9 percent, effective January 1, 1991.
4. No faculty salary increase that is the result of a bonus payment or granted on any other one-time basis shall be subject to retirement contributions or taken into consideration when calculating final compensation for purposes of determining an employee's retirement allowance under either the State Teachers' Retirement System or the Public Employees' Retirement System. These one-time increases shall not be added to the university's base budget in subsequent years.

6610-034-001—For support of Trustees of the California State University and the California State University, for augmentation for employee compensation, nonfaculty salary increases..... 17,020,000

Provisions:

1. The funds herein appropriated are for nonfaculty salary increases and increases in benefits related thereto, to be allocated by the Department of Finance, in augmentation of Item 6610-001-001 or allocations for support or for other purposes, in such amounts as will make suffi-

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cient money available for each nonfaculty employee, whose compensation or portion thereof is chargeable to the General Fund, to receive any such increases provided by the Trustees of the California State University.

2. Amounts proposed for nonfaculty salary increases constitute the total increase in salaries for all nonfaculty employees of the California State University for the 1990–91 fiscal year. Funds appropriated for employee compensation increase are to be allocated by executive order of the Department of Finance to the Trustees of the California State University in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining in units not yet certified, or in units that are certified but are not bargaining for a 1990–91 memorandum of understanding as of the date of this act, in accordance with salary and benefit schedules established by the Trustees of the California State University.
3. The funds appropriated in this item are sufficient to provide a nonfaculty salary increase averaging up to 5 percent, effective January 1, 1991.

6610-036-001—For support of Trustees of the California State University and the California State University, for augmentation for employee and annuitant compensation, staff benefits 16,114,000

Provisions:

1. The funds herein appropriated are for staff benefit increases, to be allocated by the Department of Finance, in augmentation of Item 6610-001-001 or allocations for support or for other purposes, in such amounts as will make sufficient money available for each faculty or nonfaculty employee, whose compensation or portion thereof is chargeable to the General Fund, to receive any such increases provided by the Trustees of the California State University.
2. Amounts proposed for employee and annuitant benefit increases constitute the total increase in benefits for all employees and annuitants of the California State University for the 1990–91 fiscal year. Funds appropriated for employee and annuitant compensation increase are to be allocated by executive order of the Department of

Item		Amount
	Finance to the Trustees of the California State University in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining in units not yet certified, or in units that are certified but are not bargaining for a 1990–91 memorandum of understanding as of the date of this act, in accordance with benefit schedules established by the Trustees of the California State University.	
	3. The funds appropriated in this item are sufficient to maintain faculty and nonfaculty benefits at the same rate of increase as for civil service and related employees.	
6610-301-660—For capital outlay, State Public Works Board, payable from the Public Buildings Construction Fund, from proceeds from the sale of bonds, negotiable notes or negotiable bond anticipation notes for the construction of California State University instructional facilities pursuant to Government Code Section 15820.50 et seq.		82,126,000
Schedule:		
California State University, Long Beach:		
(1) 06.71.084—Dance Facility/Auditorium—Construction	26,218,000	
California State University, Northridge:		
(2) 06.82.058—Business Administration/Economics and Education Building—Construction	25,909,000	
California State Polytechnic University, Pomona:		
(3) 06.98.081—Laboratory Facility—Working drawings, construction and equipment	1,953,000	
California State University, Sacramento:		
(4) 06.76.076—Classroom/Faculty Office/Laboratory Building—Construction	8,384,000	
California State University, San Bernardino:		
(5) 06.78.059—School of Business/Information Sciences Building—Working drawings and construction	19,662,000	
Provisions:		
1. In addition to the cost of construction, the State Public Works Board may authorize any additional amounts necessary to pay the costs of financing, including interest during construction of the project, a reasonably required reserve		

Item		Amount
fund and the cost of issuance of permanent financing.		
6610-301-791—For capital outlay, Trustees of the California State University and the California State University payable from the June 1990 Higher Education Capital Outlay Bond Fund		119,215,000
Schedule:		
Systemwide—Trustees of the California State University:		
(1) 06.48.313 Statewide: preliminary planning for selected 1991/92 and 1992/93 projects	400,000	
(2) 06.48.314 Statewide: Architectural Services	500,000	
(3) 06.48.315 Statewide: Minor Capital Outlay—Preliminary plans, working drawings, construction and equipment	6,000,000	
(4) 06.48.318 Statewide: Minor Capital Outlay—Energy Conservation retrofits—preliminary plans, working drawings, and construction	2,382,000	
(5) 06.48.321 Systemwide: Feasibility studies for energy retrofits	120,000	
(6) 06.48.333 Systemwide: Campus utilities infrastructure master-planning	500,000	
California State University, Bakersfield:		
(7) 06.50.049-Music Building Addition —Preliminary plans	62,000	
(8) 06.50.054-Walter W. Stiern Library—Working drawings	445,000	
California State University, Chico:		
(9) 06.52.093-Plumas Hall Addition—Equipment	1,618,000	
California State University, Dominguez Hills:		
(10) 06.54.057-Educational Resources Center for Library Remodeling—Equipment	372,000	
California State University, Fresno:		
(11) 06.56.067-Music Building Remodel and Addition—Construction	9,860,000	
(12) 06.56.070-Education Building —Working drawings	439,000	

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(13) 06.56.077-Engineering East Addition—Equipment	3,298,000
(14) 06.56.079-University Farm Laboratory—Equipment	1,417,000
(15) 06.56.080-Central Plant and Utility Expansion—Preliminary plans and working drawings	280,000
California State University, Fullerton:	
(16) 06.62.070-Physical Education Addition—Preliminary plans	147,000
(17) 06.62.073-Classroom/Student and Academic Support/Facility Office Building—Working drawings	365,000
(18) 06.62.074-Library Building Addition—Preliminary plans	476,000
(19) 06.62.075 Central Plant, Phase V—Preliminary plans and working drawings	357,000
(20) 06.62.076-Science Building Addition and Renovation, Phase II—Preliminary plans	258,000
California State University, Hayward:	
(21) 06.64.071-Contra Costa Off-Campus Center, Infrastructure II —Working drawings and construction	8,652,000
(22) 06.64.072-Art and Education Building Renovation—Preliminary plans	80,000
California State University, Long Beach:	
(23) 06.71.082-Library Addition and Remodel—Construction	8,438,000
(24) 06.71.083-Renovate Engineering Buildings—Construction	7,516,000
(25) 06.71.091-School of Business—Equipment	1,742,000
(26) 06.71.092-Renovate applied Arts and Sciences and Additions—Preliminary plans	448,000
(27) 06.71.093-Renovate and Upgrade High Voltage Electrical Infrastructure—Preliminary plans and working drawings	457,000
(28) 06.71.094-Physical Education Building Addition—Preliminary plans	199,000

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California State University, Northridge:	
(29) 06.82.059-South Library Conversion—Construction	4,280,000
(30) 06.82.060-Physical Education Addition and Renovation—Preliminary plans	266,000
(31) 06.82.067-Science Building Renovation, Phase I—Preliminary plans	294,000
(32) 06.82.069-Engineering Addition, Asbestos Abatement, Renovation Phase I—Preliminary plans	257,000
(33) 06.82.070-Renovation and Upgrade, Electrical Infrastructure Phase I—Preliminary plans and working drawings	403,000
California State Polytechnic University, Pomona:	
(34) 06.98.083-Utilities I—Construction	4,097,000
(35) 06.98.085-Science Building Addition and Renovation, Phase I—Preliminary plans	304,000
(36) 06.98.092-Utilities II—Preliminary plans, working drawings and construction	779,000
California State University, Sacramento:	
(37) 06.76.083-Classroom Building—Equipment	1,814,000
(38) 06.76.084-Correct Fire Marshal Deficiencies—Preliminary plans, working drawings and construction	2,410,000
California State University, San Bernardino:	
(39) 06.78.060-Library Addition/Site Development—Working drawings	460,000
(40) 06.78.061-Electrical Feeder—Working drawings and construction	619,000
(41) 06.78.062-Plant Expansion—Working drawings and construction	921,000
(42) 06.78.068-Classroom/Faculty Office/Student Services Building—Equipment	2,770,000
(43) 06.78.069-Visual Arts Building—Preliminary plans	251,000

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(44) 06.78.070-Health, Physical Education, Classroom and Faculty Office Complex—Preliminary plans.....	390,000
San Diego State University:	
(45) 06.80.109-Chemistry/Geology Building Renovation and Addition—Chilled Water System Expansion, Phase I—Working drawings and construction.....	4,855,000
(46) 06.80.110-Classroom/Student Services Building, Phase II—Construction.....	13,362,000
(47) 06.80.116-San Marcos Campus, Initial Facility—Equipment.....	4,572,000
(48) 06.80.118-San Marcos Campus, Physical Plant/Corporation Yard —Equipment	604,000
(49) 06.80.137-Engineering Building Renovation and Addition, Phase I—Preliminary plans	405,000
(50) 06.80.140-Library Addition—Preliminary plans	538,000
(51) 06.80.142-Utilities Improvements, Phase I—Working drawings and construction	3,900,000
San Francisco State University:	
(52) 06.84.060-Burk Education Building, Remodel and Addition—Preliminary plans	297,000
(53) 06.84.063-Classroom/Faculty Office Building—Working drawings..	577,000
(54) 06.84.086-Faculty Office/Laboratory Building and Gymnasium —Preliminary plans.....	526,000
San Jose State University:	
(55) 06.86.095-Central Fire Alarm and Emergency System—Preliminary plans, working drawings and construction.....	2,545,000
California Polytechnic State University, San Luis Obispo:	
(56) 06.96.086-Physical Education Addition—Construction	7,272,000
(57) 06.96.088-Dairy Science II—Preliminary plans.....	167,000
(58) 06.96.089-Poultry Science Unit —Preliminary plans.....	82,000

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(59)	06.96.101-Performing Arts Center—Preliminary plans	270,000
California State University, San Marcos:		
(61)	06.68.051-Initial Facility, Library Book Acquisition Part I—Equipment	2,100,000

Provisions:

1. Funds appropriated in Schedule (1) for statewide preliminary planning shall be available only for those major capital outlay projects for which working drawing funds or working drawing and construction funds are expected to be included in the fiscal year 1991–92 Governor's Budget and for which preliminary plans and cost estimates can be developed prior to legislative hearings for the fiscal year 1991–92 Budget Bill, except that a maximum of $200,000 shall be available for expenditure on July 1, 1990, for the utility and site development for major capital outlay projects and for development of cost-/benefit analyses of planning alternatives and detail project programs for proposed fiscal year 1991–92 and fiscal year 1992–93 capital outlay projects. If, on or before January 15, 1991, the $200,000 intended in Schedule (1) for preliminary planning has not been allocated by the Department of Finance because the anticipated related projects have not been included in the fiscal year 1991–92 Governor's Budget, then any remaining balance of the $200,000 in preliminary planning funds may be expended for cost-/benefit analyses of planning alternatives or detailed project programs for proposed fiscal year 1991–92 and fiscal year 1992–93 capital outlay projects, or both.
2. No funds appropriated in category (4) of this item for statewide minor capital outlay—energy conservation retrofits shall be encumbered for any project unless and until the project has been reviewed and determined by the Department of General Services, Office of Energy Assessments, as unsuitable for funding under the Energy Efficiency Revenue Bond Program. In addition, no funds appropriated in category (4) of this item shall be encumbered unless and until the California State University determines that the project is an economical investment, mea-

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sured by the same methodology and guidelines used by the Office of Energy Assessments for projects funded under the Energy Efficiency Revenue Bond Program, and including consideration of all interest costs associated with the general obligation bond funds and Pooled Money Investment Account loans that may be issued to fund the project. The estimated amounts (on which this appropriation was based) for those projects reviewed and determined by the department as suitable for funding under the Energy Efficiency Revenue Bond Program and for those other projects determined by the California State University as unsuitable for funding under this item of appropriation, shall be identified by the California State University, and shall revert to the unappropriated balance of the June 1990 Higher Education Capital Outlay Bond Fund on June 30, 1991.

3. The preparation of preliminary plans for the performing arts center at the San Luis Obispo campus, funded in category (59) of this item, shall be consistent with the state's share of costs for preliminary plans, working drawings, construction, and equipment for the project, not exceeding $15,643,000 at ENR cost index 4828, adjusted for changes in that index. In addition, State Public Works Board approval of preliminary plans shall be contingent on amendment of the agreement between the California State University, the City of San Luis Obispo, and the Foundation for the Performing Arts Center to reflect the above limitation on state funding.

6610-490—Reappropriation, California State University. Notwithstanding any other provision of law, the balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations and shall be available for expenditure until June 30, 1992:

001—General Fund

(1) Item 6610-001-001, Budget Act of 1989:

Provisions:

1. The reappropriated funds shall be available for unallocated reductions, interagency agreement with the State Controller's office to correct

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Schedule 8 computer programs, replacement of instructional equipment, deferred maintenance and special repair projects, and the California Academic Partnership Program (CAPP).

2. The first $5,454,000 made available by this item shall be used to offset unallocated reductions in Item 6610-001-001, Schedule (g), of this Act.
3. The California State University shall report to the Department of Finance and the Joint Legislative Budget Committee the amount of the balance, on June 30, 1990, of Item 6610-001-001 of the Budget Act of 1989, by September 30, 1990, and the expenditures made pursuant to this item by September 30, 1991, and September 30, 1992.

(2) Item 6610-003-001, Budget Act of 1989.

6610-491—Reappropriation, California State University. The balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations:

525—High Technology Education Revenue Bond Fund:

Item 6610-301-525, Budget Act of 1989:

(1) 06.52.054 Chico, Construction, O'Connell Technology Center
(3) 06.62.069 Fullerton, Working Drawings and Construction, Science Building Addition and Renovation, Phase I

660—Public Buildings Construction Fund:

Item 6610-301-660, Budget Act of 1989:

(2) 06.67.084 Humboldt, Founders Hall Rehabilitation, Working Drawings and Construction
(5) 06.84.085 San Francisco, Remodel Arts and Industry Building and Addition, Construction
(6) 06.96.087 San Luis Obispo, Dairy Science I, Instructional Center, Construction

782—Higher Education Capital Outlay Bond Fund:

Item 6610-301-782, Budget Act of 1987:

(8) 06.48.318 Minor projects, Energy Conservation Retrofits, Preliminary Planning, Working Drawings, Construction, and Equipment
(23) 06.67.085 Humboldt, Engineering/Biological Science, Preliminary Plans, Working Drawings, and Contruction

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785—Higher Education Capital Outlay Bond Fund of 1988:
Item 6610-301-785, Budget Act of 1988:
(29) 06.82.061 Northridge, Ventura Site Master Plan
(35) 06.78.068 San Bernardino Classroom/Faculty Office/Student Services Building, Construction
(53) 06.96.098 San Luis Obispo, Remodel and Addition Business Administration and Education, Construction
785—Higher Education Capital Outlay Bond Fund of 1988:
Item 6610-301-785, Budget Act of 1989:
(8) 06.56.067 Fresno, Music Building Remodel and Addition, Phase I, Working Drawings
(16) 06.71.082 Long Beach, Library Addition and Remodel, Working Drawings
(17) 06.71.023 Long Beach, Renovate Engineering Buildings, Working Drawings
(18) 06.71.084 Long Beach, Auditorium, Working Drawings
(19) 06.71.084 Long Beach, Dance Facility, Working Drawings
(21) 06.82.058 Northridge, Business Administration/Economics and Education Building, Working Drawings
(22) 06.82.059 Northridge, South Library Conversion, Working Drawings
(23) 06.98.081 Pomona, Laboratory Facility, Working Drawings
(24) 06.98.083 Pomona, Utilities I, Preliminary Plans and Working Drawings
(29) 06.80.110 San Diego, Classroom/Student Services Building, Phase II, Working Drawings
(31) 06.80.117 North San Diego Campus, Working Drawings and Construction, Academic Building I
(38) 06.96.086 San Luis Obispo, Physical Education Addition, Working Drawings

6610-495—Reversion, California State University. As of June 30, 1990, $5,766,000 of the unencumbered balance of the appropriation provided in the following citation shall revert to the Special Fund for Economic Uncertainties:

Item		Amount
375—Disaster Response-Emergency Operations Account		
(1) Chapter 1, First Extraordinary Session, Statutes of 1987, Section 2.		
6860-001-001—For support of California Maritime Academy		6,988,500
Schedule:		
(a) 10-Instruction	5,052,000	
(b) 20-Academic Support	1,459,000	
(c) 30-Student Services	3,190,000	
(d) 40.01-Administration	2,302,000	
(e) 40.02-Distributed Administration	−2,302,000	
(f) Reimbursements	−2,248,500	
(g) Amount payable from the California Maritime Academy Continuing Education Revenue Fund (Item 6860-001-519)	−33,000	
(h) Amount payable from the Federal Trust Fund (Item 6860-001-890)	−401,000	
(i) Amount payable from California Maritime Academy Trust Fund, pursuant to Education Code Section 70038	−30,000	
Provisions:		
1. Of the funds appropriated by this item, $422,000 shall be available for fuel oil purchases for the operation of the training ship, The Golden Bear. To the extent that federal funds become available for this purpose, the Director of Finance shall unallot an amount of up to $422,000. The Director of Finance shall report these changes to the Joint Legislative Budget Committee.		
2. It is the intent of the Legislature that the Board of Governors of the California Maritime Academy take appropriate action to provide a more equitable sharing of the cost of education at the California Maritime Academy. Accordingly, it is the intent of the Legislature that student fees increase by 10 percent for resident students, and increase by $500 per student per year for nonresident students.		
6860-001-519—For support of California Maritime Academy, for payment to Item 6860-001-001, payable from the California Maritime Academy Continuing Education Revenue Fund		33,000

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6860-001-814—For support, California Maritime Academy, for transfer to California Maritime Academy Trust Fund, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5 as enacted by the voters in Proposition 37 at the November 1984 General Election, payable from the California State Lottery Education Fund ..... (71,000)

Provisions:

1. All funds received pursuant to Proposition 37 that are allocable to the California Maritime Academy pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item.

6860-001-890—For support of California Maritime Academy, for payment to Item 6860-001-001, payable from the Federal Trust Fund 401,000

Provisions:

1. The Department of Finance shall increase the funds appropriated in this item by the amount of federal funds received in 1990–91 for the purchase of fuel oil.

6860-301-791—For capital outlay, California Maritime Academy, payable from the June 1990 Higher Education Capital Outlay Bond Fund 60,000

Schedule:

(1) 70.68.005—Minor Projects 60,000

6860-490—Reappropriation, California Maritime Academy. Notwithstanding any other provision of law, the balance, as of June 30, 1990, of the appropriation provided in the following citation is reappropriated for replacement of instructional equipment, deferred maintenance, and special repair projects, and shall be available for encumbrance and expenditure until June 30, 1991:

001—General Fund

(1) Item 6860-001-001, Budget Act of 1989

Provisions:

1. The California Maritime Academy shall report to the Department of Finance and the Joint Legislative Budget Committee the amount of the unencumbered balance, on June 30, 1990, of Item 6860-001-001 of the Budget Act of 1989, by September 30, 1990, and the expenditures made pursuant to this item by September 30, 1991.

Item		Amount
6870-001-001—For support of Board of Governors of the California Community Colleges		14,681,000
Schedule:		
(a) 10-Apportionments	2,033,000	
(b) 20-Special Services and Operations	16,922,000	
(c) 30.01-Administration	4,209,000	
(d) 30.02-Administration—Distributed	−4,209,000	
(e) Reimbursements	−4,274,000	

Provisions:

1. Of the amount appropriated in this item, $155,000 is for support of intersegmental projects under the auspices of the California Education Round Table.
2. Of the amount appropriated in this item, $66,000 is provided for State Operations in support of Instructional Improvement programs in lieu of any amount which otherwise would be appropriated for that purpose pursuant to Education Code Sections 84383 and 84384.
3. Of the amount appropriated in this item, $25,000 is provided for State Operations in support of the Cooperative Agencies Resources for Education program in accordance with the provisions of Chapter 1029, Statutes of 1982.
4. Of the amount appropriated in this item, $150,000 is provided to the Chancellor's Office for allocation to "Recording for the Blind". The terms of the required contract with "Recording for the Blind" shall specify that the $150,000 allocation shall not supplant funds currently used to provide services to community college students in California and that the level of services provided to such students for 1990–91 by "Recording for the Blind" shall be $150,000 higher than the level of services provided to such students by the agency in 1989–90.

6870-001-791—For support of Board of Governors of the California Community Colleges, Program 20.40.010—Facilities Planning, payable from the June 1990 Higher Education Capital Outlay Bond Fund	193,000

Item		Amount
6870-001-959—For support of Board of Governors of California Community Colleges, Program 20.10.060—Student Services—Foster Parent Training Program, payable from the Foster Children and Parent Training Fund		100,000
Provisions:		
1. Any federal Title IV(e) funds received as reimbursement for foster parent training activities shall be deposited into the Foster Children and Parent Training Fund as revenues.		
6870-011-001—For support of Board of Governors of the California Community Colleges, Program 20.20.010—Special Services and Operations—Faculty and Administrative Credentials		150,000
Provisions:		
1. The Credentials Program sunsets June 30, 1990, per Chapter 973, Statutes of 1988. The amount in this item is to be used for completion of credential application processing and for preparation of records to be stored.		
6870-101-001—For local assistance, Board of Governors of the California Community Colleges (Proposition 98)		1,709,037,000
Schedule:		
(a) 10-Apportionments	1,543,859,000	
(b) 20.10.010-Extended Opportunity Programs and Services and Special Services	47,879,000	
(c) 20.10.020-Disabled Students	33,356,000	
(d) 20.10.050-Transfer Centers	2,084,000	
(f) 20.10.070-Matriculation	38,413,000	
(g) 20.20.020-Academic Senate for the Community Colleges	150,000	
(h) 20.20.040-Faculty and Staff Diversity	1,859,000	
(i) 20.30.010-Faculty and Staff Development	4,900,000	
(j) 20.30.020-Instructional Improvement, for Transfer to the Community College Fund for Instructional Improvement	736,000	
(k) 20.30.050-Economic Development	5,256,000	
(*l*) 20.30.070-Transfer Education and Articulation	5,850,000	
(m) 20.30.080-Academic Standards and Evaluation	50,000	

Item		Amount
(n)	20.30.090-Underrepresented Students/Vocational Education In-Service Training.....	1,270,000
(o)	20.40.020-Deferred Maintenance..	15,000,000
(p)	20.40.040-Hazardous Substances...	8,000,000
(q)	20.50.010-Accountability	375,000

Provisions:

1. The funds appropriated in Schedule (a) are for transfer by the State Controller during the 1990–91 fiscal year to Section B of the State School Fund, in lieu of the amount which otherwise would be appropriated for transfer from the General Fund in the State Treasury to Section B of the State School Fund for the 1990–91 fiscal year pursuant to Section 14020 of the Education Code, as needed, in addition to the sums accruing to Section B of the State School Fund from other sources for the purposes specified in this item for apportionment pursuant to Chapter 5 of Part 50 of the Education Code.
2. Notwithstanding any other provision of law, $5,000,000 of the funds appropriated in Schedule (a) shall be for allocation to community college districts in the 1990–91 fiscal year for the purposes of funding, beyond the statutory ADA growth limit, needs in basic skills, including English-as-a-second-language courses. The Chancellor of the California Community Colleges shall develop criteria for allocating funds for instruction in basic skills.
3. Notwithstanding any other provision of law, $6,201,000 of the funds appropriated in Schedule (a) shall be for allocation to community colleges for purposes of funding ADA beyond the statutory ADA growth limit for 1990–91. In allocating these funds, the chancellor shall use the allocation method provided in statute for annual ADA growth adjustments. This funding shall be considered as part of the base revenues for community college districts in computing the districts' subsequent year's funding.

3.1. Of the amount appropriated in Schedule (a), $2,366,000 is for allocation by the Chancellor to fund additional average daily attendance (ADA) in new educational centers in the Mt. San Jacinto and Riverside Community College Districts. Of this amount $1,231,000 is for allo-

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cation to Mt. San Jacinto District for a new center, and $1,135,000 is for allocation to Riverside District for a new center. The additional ADA funded by this provision shall be a permanent augmentation to the base ADA for these districts in subsequent years.

4. For the 1990–91 fiscal year, the base revenues for each community college district shall be computed in accordance with the procedures defined in Section 84700 of the Education Code, including all average daily attendance computed pursuant to Section 84500 as adjusted by Section 84895, if applicable, that would have otherwise been funded for fiscal year 1989–90 if supplemental funding of instructional hours through Provision 15 of Item 6870-101-001 and Section 23.50(a) (2) (C) (1) of the Budget Act of 1989 were not available.

It is the legislative intent that districts' additional average daily attendance funded for 1989–90 through the General Apportionment process as a result of other districts' average daily attendance or attendance hours being funded through supplemental funds shall be understood to be one-time and shall not become part of the base revenue for subsequent years.

6. (a) Of the amount appropriated in Schedule (a), $54,751,000 is for allocation by the chancellor for partial funding of the $70,000,000 in Transitional Program Improvement Funds needed for implementation of Phase II of program reforms pursuant to Chapter 973 of the Statutes of 1988. These funds are subject to the allocation and expenditure provisions of Section 84755 of the Education Code. In subsequent years, these funds will be considered as part of the $70,000,000 needed in the annual level of Transitional Program Improvement Funds necessary for implementation of Phase II.

(b) Of the amount appropriated in this item, $10,918,000 is in satisfaction of the Proposition 98 minimum funding requirements for the 1988–89 fiscal year. This amount shall be allocated for funding of the $70,000,000 in Transitional Program Improvement Funds needed for implementation of Phase II of

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program reforms pursuant to Chapter 973 of the Statutes of 1988. These funds are subject to the allocation and expenditure provisions of Section 84755 of the Education Code. In subsequent years, these funds will be considered as part of the $70,000,000 needed in the annual level of Transitional Program Improvement Funds necessary for implementation of Phase II.

(c) It is the intent of the Legislature that in building the budget for 1991–92, the highest priority for base funding be given to sustaining the reforms pursuant to Chapter 973 of the Statutes of 1988, funded in 1990–91.

7. (a) Of the amount appropriated in Schedule (a), up to $6,398,000 shall be available as necessary upon certification by the Chancellor of the California Community Colleges for the purpose of funding community college related and supplemental instruction pursuant to Section 3074 of the Labor Code as provided in Section 8152 of the Education Code. No community college district shall use funds available under this provision to offer any new or expansion of apprenticeship training program(s) unless that program(s) has been approved by the chancellor.

(b) The chancellor shall report to the Department of Finance and the Legislature no later than October 1, 1990, on the amount of funds expended for and the hours of related and supplemental instruction offered in the apprenticeship program during the 1989–90 fiscal year, with information to be provided by community college district, program sponsor, and trade. Expenditure information shall distinguish between direct and indirect costs, including administrative costs, funded for community college districts. In addition, the report shall identify the hours of related and supplemental instruction proposed for the 1990–91 fiscal year by community college district, program sponsor, and trade. As a condition of receiving funds for the apprenticeship program, districts shall report to the chancellor's office the in-

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formation necessary for the completion of this report.

(c) Notwithstanding Section 8152 of the Education Code, each 60-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of four dollars and five cents ($4.05) per hour. For purposes of this provision, each hour of teaching time may include up to 10 minutes for passing time and breaks.

(d) For any apprentice program offered pursuant to Section 8152 of the Education Code that in 1990–91 is transferred from a community college district to a K–12 school district, the Controller, upon certification by the chancellor and approval of the Director of Finance, shall transfer, prior to certification of the first or second principal apportionments, as appropriate, from Schedule (a) of this item to Schedule (d) of Item 6110-101-001 an amount equal to the number of hours for which the apprentice program received funding in 1989–90 times $4.05. Any transfers authorized pursuant to this provision shall be subject to Chapter 961 of the Statutes of 1989.

8. Notwithstanding any other provision of law, any funds allocated pursuant to Section 84707 of the Education Code or Section 22.00 of this act shall not be considered as part of the base revenues for community college districts in computing the 1991–92 apportionments, as prescribed in Section 84701 of the Education Code. The additional ADA generated above each district's funded ADA shall not be added to the subsequent year's ADA base, and the additional revenues and ADA shall not be included in calculations for determining the average revenues per ADA.

9. (a) The funds appropriated in Schedule (b) are for transfer by the State Controller during the 1990–91 fiscal year to Section B of the State School Fund and are exclusively for allocation to local assistance programs not-

Item		Amount
	withstanding Section 69648.5 of the Education Code.	
	(b) Of the amount in Schedule (b), $32,621,000 is for Extended Opportunity Programs and Services in accordance with the provisions of Article 8 (commencing with Section 69640) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code; $13,420,000 is for the Board Financial Aid Program; $1,614,000 is for the Cooperative Agencies Resources for Education program in accordance with the provisions of Chapter 1029, Statutes of 1982; and $224,000 is for the Puente Project if these funds are matched by $100,000 of private funds and the participating community colleges and University of California campuses maintain their 1989–90 support level for the Puente Project. The Board of Governors shall allocate funds on a priority basis and to local programs on the basis of need for student services and financial aid.	
10.	(a) The funds appropriated in Schedule (c) are for transfer by the State Controller during the 1990–91 fiscal year to Section B of the State School Fund, in lieu of the amount which otherwise would be appropriated for transfer from the General Fund in the State Treasury to Section B of the State School Fund for the 1990–91 fiscal year pursuant to Section 14020 of the Education Code, for local assistance for funding the excess direct instructional cost of providing special facilities, special education materials, educational assistance, mobility assistance, transportation, program accountability, program developmental services for handicapped students enrolled at community colleges, and for state hospital programs. The chancellor shall allocate an amount not to exceed $929,000 of the funds to districts for local assistance purposes for program development and program evaluation pursuant to Section 84850 of the Education Code. Prior to allocation of funds, the chancellor shall submit an expenditure plan for Department of Fi-	

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nance approval.

(b) Of the amount appropriated in Schedule (c), $753,000 is for growth in the number of students served by this program, and is not to be used for increased costs or levels of services provided to existing students.

(c) Of the amount appropriated in schedule (c), at least $583,000 shall be used for support of the High Tech Center for activities including, but not limited to, training of district employees and students in the use of specialized computer equipment for the disabled.

(d) Of the amount appropriated in schedule (c), $800,000 shall be used for staff costs at campus High Tech Centers to be selected by the chancellor.

11. The funds appropriated in Schedule (d) are to fund up to 20 transfer centers on a pilot project basis in accordance with proposals submitted by districts to the chancellor's office.

12. The funds appropriated in Schedule (f) are for the purpose of student matriculation, as specified in Chapter 1467, Statutes of 1986 and are for transfer by the State Controller during the 1990–91 fiscal year to Section B of the State School Fund. It is the intent of the Legislature that funding provided for the purposes of student matriculation shall continue to be scheduled in the Governor's Budget as a categorical program, including that scheduling in the event that Phase II of transitional program improvement of community college reform, as defined by paragraph (2) of subdivision (b) of Section 70 of Chapter 973 of the Statutes of 1988, is adequately funded, pursuant to subdivision (e) of Section 70 of Chapter 973 of the Statutes of 1988. Accordingly, all funds scheduled for student matriculation shall be used only for the provision of student matriculation services and programs.

13. The amounts in Schedules (h), (i), and (k) are for transfer by the State Controller during the 1990–91 fiscal year to Section B of the State School Fund.

14. The funds appropriated in Schedule (j) shall be expended only for grants and are in lieu of any

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amount which otherwise would be appropriated or reallocated pursuant to Section 84384 of the Education Code.

16. Of the amount appropriated in Schedule (*l*), $4,365,000 shall be for transfer functions to include transfer centers and transfer guarantee agreements. These funds shall be available to fund legislation expanding these programs in 1990–91. If no such legislation is enacted, the chancellor shall allocate the funds for transfer programs pursuant to an expenditure plan approved by the Department of Finance. Approval of the Department of Finance may not be effective sooner than 30 days after notification to the Chair of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chair of the Joint Legislative Budget Committee, or his or her designee, may determine.

    Notwithstanding Section 84755 of the Education Code, the funds allocated pursuant to this provision shall be "program improvement revenues" and shall be counted, in 1990–91 and subsequent years, as funds provided for "Phase II of transitional program improvement" pursuant to subdivision (e) of Section 70 of Chapter 973 of the Statutes of 1988.

17. Of the amount in Schedule (n), $1,050,000 shall be used for continued funding of the Counselor and Instructor In-Service Training Program initiated in Chapter 1662, Statutes of 1984. The balance of $220,000 in schedule (n) shall be used for funding of grants to improve the retention and educational success of students from the underrepresented groups (Underrepresented Student Special Projects).

17.5. Of the amount in Schedule (k), up to $3,939,000 may be allocated by the chancellor for the funding of employer-based job training programs of the type funded pursuant to Provision 12 of Item 6870-101-001 of the Budget Act of 1982. These programs shall be consistent with the intent of that provision and with the criteria adopted by the Board of Governors for allocating funds under that provision.

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18. Notwithstanding the provisions of Section 2.00 of this act, the funds appropriated in schedule (o) shall be available for expenditure until June 30, 1992.
19. Pursuant to Section 84661 of the Education Code, which requires districts to match state funds provided for deferred maintenance, Schedule (o), and also authorizes the Board of Governors to waive this matching requirement, the chancellor shall report to the Joint Legislative Budget Committee by March 1, 1991, on any waivers granted.
20. Of the amount appropriated in Schedule (p), $3,000,000 shall be available for reimbursement to community colleges for development of business plans for emergency response to a release of hazardous materials and preparation of hazardous chemical inventories.
22. Notwithstanding Attorney General Opinion No. 89-202 or any provision of law to the contrary, the penalties and interest on property tax redemptions received by school districts, county offices of education, and community college districts during the 1990–91 fiscal year shall not be considered property tax revenue for purpose of determining the state aid portion of school apportionment funding.

6870-101-791—For local assistance, Board of Governors of the California Community Colleges, payable from the Higher Education Capital Outlay Bond Fund of June 1990 28,000,000

Schedule:

(a) 20.40.030-Instructional Equipment 23,000,000
(b) 20.40.040-Hazardous Substances ... 5,000,000

Provisions:

1. The funds appropriated in Schedule (a) are for transfer by the State Controller during the 1990–91 fiscal year to Section B of the State School Fund.
2. The amount appropriated in Schedule (a) is available on a one-time basis for the purpose of providing community college districts with funds to replace instructional equipment and for purchase of library materials. The Chancellor of the California Community Colleges shall allocate these funds to the districts so that, for

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	every $3.00 (three dollars) of funds allocated from this item, the districts shall provide $1.00 (one dollar) of matching funds. Furthermore, these funds shall not be used for personal services costs or operating expenses.	
	3. The amount appropriated in Schedule (b) is for the purpose of abating asbestos hazards which have been categorized as "severe".	
	4. Air samples shall be obtained of all spaces that are scheduled to undergo asbestos removal. In the contract provisions for asbestos removal, contractors shall be required to show that, upon completion of the project, the airborne asbestos level is at or below either the limits allowed by the governing regulatory agency or the level identified from the air sample taken prior to initiating the project, whichever is lower.	
6870-101-814	—For local assistance, Board of Governors of the California Community Colleges, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5 as enacted by the voters in Proposition 37 at the November 1984 general election, payable from the California State Lottery Education Fund.....	127,051,000
	Provisions:	
	1. All funds received pursuant to Proposition 37 that are allocable to community college districts pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item.	
6870-101-909	—For local assistance, Board of Governors of the California Community Colleges Program 20.30.020—Instructional Improvement and Innovation, payable from the Community College Fund for Instructional Improvement.....	920,000
	Provisions:	
	1. Of the amount appropriated by this item, not more than $736,000 shall be allocated for grants and not more than $184,000 shall be allocated for loans.	
6870-101-959	—For local assistance, Board of Governors of the California Community Colleges for Program 20.10.060—Student Services—Foster Parent Training Program, payable from the Foster Children and Parent Training Fund	900,000

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Provisions:		
1. Any federal Title IV(e) funds received as reimbursement for foster parent training activities shall be deposited into the Foster Children and Parent Training Fund as revenues.		
6870-103-001—For local assistance, Board of Governors of the California Community Colleges (Proposition 98), for transfer to and in augmentation of Item 6870-101-001, for lease-purchase payments to be allocated upon order of the Department of Finance no sooner than necessary to allow selected community colleges to make the required lease-purchase payments		1,741,000
6870-111-001—For local assistance, Board of Governors of the California Community Colleges		0
Schedule:		
(a) 20.30.030-Vocational Education Special Projects	4,064,000	
(b) 20.30.031-Vocational Education Allocations	31,176,000	
(c) Reimbursements	−35,240,000	
Provisions		
1. The amounts appropriated in Schedules (a) and (b) shall be available for expenditure until June 30, 1992.		
6870-301-660—For capital outlay, State Public Works Board, payable from the Public Buildings Construction Fund, from the proceeds from sales of bonds, negotiable notes or negotiable bond anticipation notes for the construction of California Community Colleges instructional facilities pursuant to Government Code Section 15820.50 et seq.		97,605,000
Schedule:		
Antelope Valley Community College District		
Antelope Valley College		
(1) 40.03.103—Library building —Working drawings and construction	5,004,000	
El Camino Community College District		
El Camino College		
(2) 40.14.103—Library addition —Construction	6,349,000	

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Los Angeles Community College District	
Los Angeles Southwest College	
(3) 40.26.602—Indoor physical education facilities—working drawings and construction	12,802,000
West Los Angeles College	
(4) 40.26.902—Aerospace complex —Construction	7,884,000
Los Rios Community College District	
Placerville Center	
(5) 40.27.403—Facilities, Phase I —working drawings and construction	6,409,000
Napa Valley Community College District	
Upper Valley Center	
(6) 40.35.202—On-site development and permanent facilities—Construction and equipment	3,930,000
Pasadena Area Community College District	
Pasadena City College	
(7) 40.39.103—Library—Construction	12,356,000
San Francisco Community College District	
San Francisco City College	
(8) 40.48.103—Library—Construction	15,235,000
Santa Monica Community College District	
Santa Monica College	
(9) 40.55.101—Technology building addition—Construction	4,467,000
Sonoma County Junior College District	
Petaluma Center	
(10) 40.61.202—Permanent Facilities—Construction	7,429,000
Ventura County Community College District	
Oxnard College	
(11) 40.65.203—Indoor physical education gymnasium—Construction and equipment	6,835,000
Victor Valley Community College District	
Victor Valley Community College	
(12) 40.66.102—Indoor physical education gymnasium—Construction	4,713,000

Item		Amount
Yosemite Community College District Modesto Junior College (13) 40.70.204—Fire training center —Construction	4,192,000	
Provisions: 1. In addition to the cost of construction, the State Public Works Board may authorize any additional amounts necessary to pay the costs of financing, including interest during construction of the project, a reasonably required reserve fund and the cost of issuance of permanent financing.		
6870-301-782—For capital outlay, Board of Governors of the California Community Colleges, to be allocated, by the Board of Governors of the California Community Colleges to community college districts, for expenditure by these districts as set forth in the schedule below, payable from the Higher Education Capital Outlay Bond Fund		1,727,000
Schedule: Yosemite Community College District Columbia College (1) 40.70.101-Construct Multipurpose Instructional Facility Gymnasium	1,727,000	
Provisions: 1. Any augmentation to category (1) by the State Public Works Board based on excess bids shall be prorated based on a state share of 84.6 percent and a district share of 15.4 percent.		
6870-301-791—For capital outlay, Board of Governors of the California Community Colleges, to be allocated, by the Board of Governors of the California Community Colleges to community college districts, for expenditure by these districts, as set forth in the schedule below, payable from the June 1990 Higher Education Capital Outlay Bond Fund		91,637,000
Schedule: Allan Hancock Community College District Allan Hancock College (1) 40.02.106-Secondary effects of renovations—Equipment	662,000	
(2) 40.02.109-Site development, Phase II—Working drawings and construction	1,805,000	

Item	Amount
Antelope Valley Community College District	
Antelope Valley College	
(3) 40.03.101—Remodel to create classroom, office and relocation nursing—Equipment	20,000
(4) 40.03.102-Administration building remodel—Working drawings and construction	1,810,000
Butte Community College District	
Butte College	
(4.5) 40.05.101 Butte College Maintenance Warehouse–Construction	875,000
Cabrillo Community College District	
Cabrillo College	
(5) 40.06.102-Food technology expansion—Working drawings and construction and equipment	906,000
(6) 40.06.103-Architectural barrier removal—Working drawings and construction	523,000
Cerritos Community College District	
Cerritos College	
(7) 40.07.104-Learning resource center remodel/expansion—Working drawings	282,000
Chaffey Community College District	
Chaffey College	
(8) 40.08.101-Learning resource center remodel/expansion—Working drawings	146,000
Citrus Community College District	
Citrus College	
(10) 40.09.105-Aquatic center—Construction and equipment	1,318,000
(11) 40.09.106-Child care/development addition—Construction and equipment	1,323,000
Desert Community College District	
Copper Mountain Center	
(13) 40.10.203-Learning resource center—Working drawings	121,000
(14) 40.10.204-Student services center—Working drawings	100,000
Coast Community College District	
Golden West College	
(15) 40.11.202-Architectural barrier removal—Construction	569,000

Item	Amount
(16) 40.11.203-Math/science building reconstruction—Working drawings and construction	1,130,000
Orange Coast College	
(17) 40.11.304-Architectural barrier removal—Working drawings and construction	246,000
(18) 40.11.305-Vocational technology building—Working drawings	761,000
Contra Costa Community College District	
Diablo Valley College	
(19) 40.13.206-Skills center addition —Construction	2,324,000
El Camino Community College District	
El Camino College	
(20) 40.14.104-Child care/development facility—Construction and equipment	1,071,000
Feather River Community College District	
Feather River College	
(21) 40.73.101-Science module —Working drawings	128,000
Foothill-DeAnza Community College District	
DeAnza College	
(22) 40.15.101—Computer electronic telecommunication building—Equipment	3,686,000
Foothill College	
(24) 40.15.202-Library remodel/addition—Working drawings and construction	3,396,000
Fremont-Newark Community College District	
Ohlone College	
(25) 40.16.103-Performing arts facility —Working drawings	714,000
Glendale Community College District	
Glendale Community College	
(25.5) 40.18.105-Renovation of Classroom/Laboratories/Administration Building—Equipment	146,000
(26) 40.18.108-Remodel to create classrooms—Equipment	61,000
(26.1) 40.18.108-Remodel to create classroom-Additional construction	604,000
(27) 40.18.110-Building T remodel/addition—Construction	3,042,000

Item	Amount
(28) 40.18.111-Training center, Phase I—Construction and equipment.	3,034,000
(29) 40.18.112-Architectural barrier removal—Working drawings and construction	226,000
(30) 40.18.113-Fire access Road —Working drawings and construction	1,368,000
Grossmont-Cuyamaca Community College District	
Districtwide	
(31) 40.19.001-Architectural barrier removal—Working drawings and construction	181,000
Cuyamaca College	
(33) 40.19.109-Indoor physical education facility, gymnasium—Working drawings and construction	5,280,000
Imperial Community College District	
Imperial College	
(35) 40.21.103-Child care/development facility—Construction and equipment	1,264,000
Kern Community College District	
Cerro Coso Community College	
(36) 40.22.208-Indoor physical education facility—Equipment	166,000
(37) 40.22.211-Outdoor physical education facilities—Construction and equipment	4,171,000
Porterville College	
(38) 40.22.302-Instructional building—Equipment	352,000
Los Angeles Community College District	
East Los Angeles College	
(39) 40.26.101-Vocational building—Equipment	629,000
West Los Angeles College	
(41) 40.26.901-Indoor physical education facility—Construction	3,370,000
Los Rios Community College District	
Sacramento City College	
(42) 40.27.304-Child care/development facility—Construction and equipment	2,487,000

Item	Amount
Placerville Center	
(43) 40.27.402-On-site development—Working drawings and construction	2,505,000
Marin Community College District	
Indian Valley College	
(44) 40.28.101-Retrofit for welding/machine shop—Equipment	44,000
Mendocino-Lake Community College District	
Mendocino College	
(45) 40.29.111-Outdoor physical education facility—Equipment	211,000
(46) 40.29.116-Fine arts building—Working drawings	421,000
Merced Community College District	
Merced College	
(47) 40.30.101-Architectural barrier removal—Working drawings and construction	137,000
Mira Costa Community College District	
San Elijo Center	
(48) 40.31.206-Buildings, Phase II—Construction and equipment	2,235,000
Mt. San Antonio Community College District	
Mt. San Antonio College	
(49) 40.33.104-Child care/development addition—Construction and equipment	665,000
(50) 40.33.105-Student services center—Working drawings	426,000
Mt. San Jacinto Community College District	
Mt. San Jacinto College	
(51) 40.34.101-Business/technology building—Working drawings	225,000
(52) 40.34.102-Dance laboratory conversion—Working drawings, construction and equipment	352,000
West Center	
(53) 40.34.203-Permanent facilities, Phase I—Equipment	1,447,000
(54) 40.34.204-Library books—Equipment	781,000
Napa Valley Community College District	
Napa Valley College	
(55) 40.35.102-Architectural barrier removal—Working drawings and construction	387,000

Item	Amount
Rancho Santiago Community College District	
Rancho Santiago College	
(57) 40.41.108-Permanent building, Increment II—Equipment	147,000
(58) 40.41.109-Centennial education center addition—Construction and equipment	1,002,000
(59) 40.41.110-Library addition —Working drawings, construction and equipment	1,342,000
Rio Hondo Community College District	
Rio Hondo College	
(60) 40.43.101-Photo laboratory renovation—Working drawings, construction and equipment	496,000
Riverside Community College District	
Moreno Valley Center	
(61) 40.44.203-Permanent buildings, Phase I—Equipment	1,577,000
(62) 40.44.204-Library books—Equipment	975,000
Norco Center	
(63) 40.44.303-Permanent building, Phase I—Equipment	1,220,000
(64) 40.44.304-Library books—Equipment	1,001,000
Saddleback Community College District	
Irvine Valley College	
(65) 40.45.110-Physical education facility, Phase I—Equipment	84,000
(66) 40.45.113-Indoor physical education gymnasium—Construction and equipment	3,896,000
(67) 40.45.114-Child care/development facility—Construction and equipment	2,041,000
(68) 40.45.119-Architectural barrier removal—Working drawings and construction	158,000
(69) 40.45.120-Building B secondary effects—Working drawings, construction and equipment	163,000
Saddleback College	
(70) 40.45.208-Child care/development facility—Construction and equipment	2,170,000

Item	Amount
(71) 40.45.209-Chemical storage building—Working drawings, construction and equipment	485,000
(72) 40.45.210-Main electrical feeder —Working drawings and construction	576,000
San Bernardino Community College District	
Crafton Hills College	
(73) 40.46.103-Architectural barrier removal—Working drawings and construction	229,000
San Diego Community College District	
San Diego City College	
(74) 40.47.202-Animal health facility—Equipment	60,000
San Diego Miramar College	
(75) 40.47.302-Child care/development facility—Construction and equipment	871,000
San Jose-Evergreen Community College District	
Evergreen College	
(76) 40.50.101-Remodel technical education clusters—Working drawings, construction and equipment	1,314,000
San Mateo Community College District	
Skyline College	
(76.1) 40.52.301-Automotive building addition-Additional working drawings and construction	320,000
Santa Barbara Community College District	
Santa Barbara City College	
(77) 40.53.111-Administration secondary effects—Working drawings and construction	254,000
(78) 40.53.112-Hotel management secondary effects—Working drawings and construction	472,000
(79) 40.53.113-Business communication center—Working drawings.	290,000
Santa Clarita Community College District	
College of the Canyons	
(80) 40.54.101-Remodel for efficiency —Working drawings	157,000

Item	Amount
College of the Sequoias Community College District	
College of the Sequoias	
(81) 40.56.101-Seismic upgrade and architectural barrier removal—Working drawings and construction	722,000
(82) 40.56.102-Home economics/classroom building—Working drawings	201,000
Solano County Community College District	
Solano College	
(83) 40.60.101-Aero maintenance hangar—Working drawings, construction, and equipment	1,111,000
South County Community College District	
Chabot College	
(84) 40.62.103-Architectural barrier removal—Working drawings	432,000
Ventura County Community College District	
Moorpark College	
(85) 40.65.102-Architectural barrier removal—Working drawings and construction	163,000
(86) 40.65.103-Performing arts building—Working drawings	442,000
Oxnard College	
(87) 40.65.204-Child care/development facility—Construction and equipment	1,035,000
Ventura College	
(88) 40.65.301-Child care/development facility—Construction and equipment	1,089,000
West Valley-Mission Community College District	
Mission College	
(90) 40.69.201-Indoor physical education gymnasium— Working drawings, construction, and equipment	3,418,000
Yosemite Community College District	
Modesto Junior College	
(91) 40.70.206-Automotive addition—Working drawings	147,000
(92) 40.70.205-Science renovation/addition—Working drawings	450,000

Item	Amount
Yuba Community College District	
Yuba College	
(93) 40.71.102-Disabled student services—Working drawings, construction and equipment.....	792,000
Woodland Center	
(94) 40.71.304-Learning resource center—Working drawings.....	202,000

6870-490—Reappropriation, Board of Governors of the California Community Colleges. The balance on June 30, 1990, of reimbursements for vocational education programs in Schedules (k) and (*l*) of 6870-101-001 of the Budget Act of 1989 is reappropriated and shall be available for expenditure until June 30, 1991, for local assistance vocational education allocations or vocational education special projects.

6870-491—Reappropriation, California Community Colleges. The balances of the appropriations provided for in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations:

660—Public Buildings Construction Fund Item 6870-301-660, Budget Act of 1989:

Allan Hancock Joint Community College District
Allan Hancock College
(1) 40.02.106-Construct secondary effects of renovation
Contra Costa Community College District
Los Medanos College
(2) 40.13.207-Construct and equip music addition
Foothill-DeAnza Community College District
DeAnza College
(3) 40.15.101-Construct computer/eletronics/telecom building
Glendale Community College District
Glendale College
(4) 40.18.108-Construct, remodel to create classroom
Kern Community College District
Porterville College
(6) 40.22.208-Working drawings and construct instructional building
Los Angeles Community College District
East Los Angeles College
(7) 40.26.101-Construct vocational building
Los Angeles Southwest College

Item	Amount
(8) 40.26.601-Construct technical education center	
Marin Community College District	
Indian Valley College	
(9) 40.28.101-Working drawings and construct retrofit for welding/machine shop	
Napa Valley Community College District	
Napa Valley College	
(12) 40.35.101-Construct and equip child care facility	
Saddleback Community College District	
Irvine Valley College	
(16) 40.45.110-Construct indoor P.E. shower, locker	
South County Community College District	
Chabot College, Valley Campus	
(17) 40.62.201-Construct and equip learning resources center	
Item 6870-301-660, Budget Act of 1988:	
San Mateo Co. Community College District	
Skyline College	
(48) 40.52.301-Automotive building addition Working drawings and construction	
782—Higher Education Capital Outlay Bond Fund	
Item 6870-301-782, Budget Act of 1987 as reappropriated by Item 6870-492, Budget Act of 1988 and Item 6870-492, Budget Act of 1989:	
Peralta Community College District	
Merritt College	
(24) 40.40.403-Working drawings, construct conversion of existing space	
San Bernardino Community College District	
San Bernardino Valley College	
(30) 40.46.201-Working drawings, construct, and equip removal of architectural barriers to handicapped persons	
Yosemite Community College District	
Columbia College	
(35) 40.70.101-Construct multipurpose instructional facilities, gymnasium	
785—Higher Education Capital Outlay Bond Fund of 1988	
Item 6870-301-785, Budget Act of 1989:	
Allan Hancock Joint Community College District	
Allan Hancock College	
(1) 40.02.108-Equip performing arts addition	
Antelope Valley Community College District	

Item	Amount
Antelope Valley College	
(2) 40.03.101-Working drawings and construct; remodel to create classroom, offices, and relocate nursing	
Butte Community College District	
Butte College	
(3) 40.05.101-Equip maintenance warehouse	
(5) 40.05.101-Working drawings, construct maintenance warehouse	
Cerritos Community College District	
Cerritos College	
(4) 40.07.103-Working drawings, construct and equip remodel for efficiency	
Citrus Community College District	
Citrus College	
(6) 40.09.102-Working drawings, construct and equip diesel tech addition	
(7) 40.09.103-Working drawings, recording arts addition	
(8) 40.09.104-Working drawings, construct, and equip; relocate disabled programs	
(9) 40.09.105-Working drawings, disabled aquatic center	
Contra Costa Community College District	
Diablo Valley College	
(14) 40.13.208-Working drawings and construct library lighting	
El Camino Community College District	
El Camino College	
(15) 40.14.101-Construct architectural barrier removal	
(17) 40.14.104-Working drawings, child care development facility	
Grossmont-Cuyamaca Community College District	
Cuyamaca College	
(20) 40.19.106-Construct outdoor physical education facility	
(21) 40.19.106-Equip outdoor physical education facility	
Kern Community College District	
Cerro Coso College	
(24) 40.22.210-Working drawings, construct and equip nursing lab renovation	

Item	Amount
Long Beach Community College District	
Long Beach City College	
(26) 40.24.104-Pacific Coast Campus, Equip educational support services center	
(27) 40.24.105-Working drawings, construct and equip remodel music building	
Los Angeles Community College District	
Los Angeles Southwest College	
(28) 40.26.602-Working drawings, indoor P.E. shower/locker rooms/gym	
West Los Angeles College	
(29) 40.26.901-Working drawings, gym	
Los Rios Community College District	
Consumnes River College	
(30) 40.27.203-Working drawings, construct and equip remodel laboratories	
Marin Community College District	
College of Marin	
(34) 40.28.201-Working drawings and construct retrofit for landscape management	
(35) 40.28.202-Working drawings and construct remodel for student services	
(36) 40.28.203-Working drawings and construct retrofit for disabled program	
Mira Costa Community College District	
Mira Costa College	
(39) 40.31.101-Working drawings, construct and equip building L and E conversion	
Mt. San Antonio Community College District	
Mt. San Antonio College	
(41) 40.33.104-Working drawings, infant toddler addition	
Napa Valley Community College District	
Upper Valley Center	
(42) 40.35.201-Land acquisition	
(43) 40.35.202-Working drawings, onsite development, and permanent building	
Pasadena Area Community College District	
Pasadena City College	
(44) 40.39.101-Working drawings and construct T building code corrections	
(45) 40.39.102-Working drawings and construct central plant seismic safety	
(46) 40.30.103-Acquisition and working drawings, library building	
(47) 40.39.104-Working drawings and construct T building renovation	

Item	Amount
Peralta Community College District	
Merritt College	
(48) 40.40.404-Construct hot water line replacement	
San Diego Community College District	
San Diego Mesa College	
(60) 40.47.202-Working drawings and construct animal health facility	
San Diego Miramar College	
(62) 40.47.303-Construct central utility plan	
San Mateo County Community College District	
Skyline College	
(66) 40.52.302-Working drawings and construct removal of architectural barriers to handicapped	
Santa Barbara Community College District	
Santa Barbara City College	
(67) 40.53.105-Equip student services center	
Sonoma County Junior College District	
Petaluma Center	
(69) 40.61.201-Working drawings and construct site development	
South County Community College District	
Chabot College	
(71) 40.62.202-Working drawings, construct and equip remodel dental clinic	
West Valley-Mission Community College District	
Mission College	
(78) 40.69.201-Working drawings, indoor physical education gymnasium	
Yosemite Community College District	
Modesto Junior College	
(79) 40.70.204-Working drawings, fire training center	
Columbia College	
(61) 40.70.101-Construct and equip gymnasium and performing arts	
Yuba Community College District	
Yuba College	
(80) 40.70.101-Working drawings and construct architectural barrier removal	
Item 6870-301-785, Budget Act of 1988, as reappropriated by Item 6870-492, Budget Act of 1989:	
Allan Hancock Joint Community College District	
Allan Hancock College	
(4) 40.02.108-Working drawings, construct performing arts addition	

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Butte Community College District	
Butte College	
(5) 40.05.101-Working drawings, construct maintenance warehouse	
Compton Community College District	
Compton College	
(11) 40.12.101-Working drawings, construct, remodel electronics laboratory	
Foothill-DeAnza Community College District	
Foothill College	
(15) 40.15.201-Working drawings, construct removal of architectural barriers to handicapped	
Grossmont-Cuyamaca Community College District	
Cuyamaca College	
(20) 40.19.106-Construct outdoor physical education facility	
Peralta Community College District	
Laney College	
(31) 40.40.301-Working drawings, construct removal of architectural barriers	
Redwoods Community College District	
College of the Redwoods	
(35) 40.42.101-Working drawings, construct library addition	
Saddleback Community College District	
Irvine Valley College	
(39) 40.45.109-Working drawings, construct library addition	
San Francisco Community College District	
San Francisco City College	
(42) 40.48.102-Working drawings, construct central shops and warehouse	
San Mateo County Community College District	
College of San Mateo	
(47) 40.52.201-Working drawings, construct removal of architectural barriers to handicapped	
Skyline College	
(48) 40.52.301-Working drawings, construct automotive building addition	
Santa Barbara Community College District	
Wake Center	
(49) 40.53.107-Working drawings, construct removal of architectural barriers to handicapped	

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Schott Center
(50) 40.53.108-Working drawings, construct removal of architectural barriers to handicapped
Santa Barbara City College
(53) 40.53.110-Working drawings, construct college secondary effects renovation
Shasta-Tehama-Trinity Community College District
Shasta College
(55) 40.57.101-Working drawings for removal of architectural barriers to handicapped
Victor Valley Community College District
Victor Valley College
(58) 40.66.101-Working drawings, construct removal of architectural barriers to handicapped
West Hills Community College District
West Hills College
(59) 40.67.101-Equip library and learning resource center
Yosemite Community College District
Columbia College
(61) 40.70.101-Construct and equip gymnasium and performing arts
Glendale Community College District
Glendale College
(71) 40.18.109-Working drawings, construct and equip aviation art building addition
San Mateo County Community College District
Districtwide
(73) 40.52.001-Working drawings, construct energy conservation retrofits

6870-492—Reappropriation, Board of Governors of the California Community Colleges. The unencumbered balance of funds appropriated in Item 6870-001-001 of the Budget Act of 1989 for a study of the Education Employee Relations Act is reappropriated for that purpose and shall be available for expenditure until June 30, 1991.

6870-493—Reappropriation, Board of Governors of the California Community Colleges. Notwithstanding any other provision of law, the balances of the appropriations provided in the following citations are reappropriated for the purposes provided in this section, and shall be available for encumbrance and expenditure until June 30, 1991:

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001—General Fund

(1) Item 6110-209-001, Budget Act of 1988.
(2) Item 6110-224-001, Budget Act of 1988.
(3) Item 6870-101-001, Budget Act of 1988.
(4) Item 6870-103-001, Budget Act of 1988.
(5) Item 6870-622-001, Budget Act of 1988.
(6) Section 22.00, Budget Act of 1988.
(7) Section 12.31, Budget Act of 1989 (Community College Share).

Provisions:

1. Of the amount reappropriated by this item, $10,884,000 shall be allocated by the Chancellor for funding of the $70,000,000 in Transitional Program Improvement Funds needed for implementation of Phase II of program reforms pursuant to Chapter 973 of the Statutes of 1988. These funds are subject to the allocation and expenditure provisions of Section 84755 of the Education Code. In subsequent years, these funds shall be considered as part of the $70,000,000 needed in the annual level of Transitional Program Improvement Funds necessary for implementation of Phase II.
2. Of the amount reappropriated by this item, $4,664,000 shall be allocated for purposes of funding ADA beyond the statutory ADA growth limit for 1990–91.
3. Amounts reappropriated from the Budget Act of 1988 are in satisfaction of the 1988–89 funding requirements of Proposition 98 and the amount reappropriated from the Budget Act of 1989 is in satisfaction of the 1989–90 funding requirement of Proposition 98.

6880-001-305—For support of Council for Private Postsecondary and Vocational Education 1,382,000

Schedule:

(a) 10-Oversight and Approval	1,382,000
(b) 20.10-Administration	814,000
(c) 20.20-Administration—Distributed	−814,000

Provisions:

1. Upon receipt of a written request from the Superintendent of Public Instruction and the Council for Private Postsecondary and Vocational Education, the Department of Finance, with 30 days' notice to the Chairperson of the Joint Legislative Budget Committee, may trans-

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fer expenditure authority from Item 6880-001-305 to Item 6110-001-305. After December 31, 1990, upon determination that all obligations of the Private Postsecondary Education Division (PPED) in the State Department of Education have been met, the Department of Finance may transfer expenditure authority not used by PPED and remaining in Item 6110-001-305 to Item 6880-001-305.

2. Commencing July 1, 1990, the Council for Private Postsecondary and Vocational Education shall have the authority to hire an executive director and any other staff necessary during the period July 1, 1990, through December 31, 1990, to facilitate the effective transition of responsibilities from the Private Postsecondary Education Division of the State Department of Education to the council. Upon request by the council, and with 30 days' notice to the Joint Legislative Budget Committee, the Department of Finance shall approve, to a maximum of $125,000, all expenses associated with the operations of the council during this period. These expenses shall be charged to and paid from Item 6880-001-305. The staff members hired by the council shall have no responsibility for the management and operations of the Private Postsecondary Education Division unless this is agreed to by both the Superintendent of Public Instruction and the council.
3. The fee schedule that shall govern the fees paid by private postsecondary educational institutions and persons as required by Section 94331 of the Education Code shall be the fee schedule currently in effect at PPED. However, no current fee shall be less than that which was charged for the same activity by PPED on December 31, 1989. In addition, the annual renewal fee for "an institution of an administrative family" shall be two hundred dollars ($200).

6880-001-890—For support of Council for Private Postsecondary and Vocational Education, Program 10—Oversight and Approval 627,000

Provisions:

1. Upon receipt of a written request from the Superintendent of Public Instruction and the Council for Private Postsecondary and Voca-

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tional Education, the Department of Finance, with 30 days' notice to the Chairperson of the Joint Legislative Budget Committee, may transfer expenditure authority from Item 6880-001-890 to Item 6110-001-890. After December 31, 1990, upon determination that all obligations of the Private Postsecondary Education Division (PPED) in the State Department of Education have been met, the Department of Finance may transfer expenditure authority not used by PPED and remaining in Item 6110-001-890 to Item 6880-001-890.		
7980-001-001—For support of the Student Aid Commission		3,795,000
Schedule:		
(a) 15-Financial Aid Grants Program	3,843,000	
(b) 50-California Loan Program	19,903,000	
(c) 80.01-Administration and Support Services	6,723,000	
(d) 80.02-Distributed Administration and Support Services	−6,723,000	
(e) Amount payable from the State Guaranteed Loan Reserve Fund (Item 7980-001-951)	−19,903,000	
(f) Reimbursements	−48,000	
7980-001-305—For support of the Student Aid Commission, payable from the Private Postsecondary and Vocational Education Administration Fund		104,000
7980-001-951—For support of the Student Aid Commission, for payment to Item 7980-001-001, payable from the State Guaranteed Loan Reserve Fund		19,903,000
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize deficiencies pursuant to Section 11006 of the Government Code from funds appropriated from the State Guaranteed Loan Reserve Fund pursuant to Section 69766 of the Education Code.		
2. Of the funds appropriated by this item, an amount not to exceed $100,000 shall be available to advance to the State Guaranteed Student Loan Processing Contractor, subject to return in accordance with terms of the service contract. The funds advanced shall be used exclusively for payment to the State Guaranteed Student Loan Processing Contractor for: (1) refund of student loan insurance premiums due to lenders on can-		

Item	Amount
celled loans, (2) refund of student borrower overpayments, (3) refund of collections made in error, or (4) purchase of returned borrower checks.	
7980-011-890—To the Student Aid Commission, Program 50, for transfer to the State Guaranteed Loan Reserve Fund, payable from the Federal Trust Fund	224,926,000
Provisions:	
1. Any federal funds received by the Student Aid Commission in excess of the amount set forth in this item shall be transferred to the State Guaranteed Loan Reserve Fund in a manner prescribed by the Department of Finance.	
7980-011-951—To the Student Aid Commission, Program 50, for purchase of defaulted student loans, payable from the State Guaranteed Loan Reserve Fund	230,000,000
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may authorize the creation of deficiencies for the purposes of this item. The Department of Finance shall notify in writing the Chairperson of the Joint Legislative Budget Committee of any deficiencies no later than 10 days after the effective date of the authorization.	
7980-021-951—There is hereby appropriated from the State Guaranteed Loan Reserve Fund to the Student Aid Commission, for purposes of Chapter 1201, Statutes of 1977, a sum necessary to make payments to the United States Secretary of Education, eligible lenders, collection contractors, and to the State Guaranteed Student Loan Processing Contractor in compliance with the regulations of the Federal Guaranteed Student Loan Program and the California Educational Loan Program which require: (1) payment to the federal Secretary of Education for the federal share of (a) collection recoveries and (b) refund of reinsurance payment on loans repurchased by lenders and (c) payment of reinsurance fees; (2) payment to the State Guaranteed Student Loan Processing Contractor for collection service fees; and (3) payment to contracted collection agencies for services provided.	

Item	Amount
7980-101-001—For local assistance, Student Aid Commission	158,900,000

Schedule:

(a) 15-Financial Aid Grants Program. 172,914,000

(b) Amount payable from the Federal Trust Fund (Item 7980-101-890) .. —13,231,000

(c) Reimbursements ..... —783,000

Provisions:

1. Funds appropriated in category (a) are for the purposes of all of the following:
   (a) For awards in the Cal Grant Program under the provisions of Article 3 (commencing with Section 69530), of Chapter 2 of Part 42 of the Education Code.
   (b) For grant awards under the provisions of Article 2 (commencing with Section 52150) of Chapter 7 of Part 28 of the Education Code.
   (c) For graduate fellowship awards under the provisions of Article 9 (commencing with Section 69670) of Chapter 2 of Part 42 of the Education Code.
   (d) For grants under the provisions of Article 16 (commencing with Section 69900) of Chapter 2 of Part 42 of the Education Code, and for grants under the provisions of Section 4709 of the Labor Code.
   (e) For CAL-SOAP contract agreements under the provisions of Article 4 (commencing with Section 69560) of Chapter 2 of Part 42 of the Education Code.
   (f) For the purchase of Loan Assumptions under the provisions of Article 6.5 (commencing with Section 69612) of Chapter 2 of Part 42 of the Education Code.
   (g) For grants under the provisions of Article 18, California State Work-Study Program (commencing with Section 69950) of Chapter 2 of Part 42 of the Education Code.
   (h) For new and renewal Cal Grant awards in amounts not to exceed award levels comparable to those in effect for the 1989–90 award year except as otherwise provided by law.
2. In order to eliminate reversions of funds from direct financial aid programs, the number of new Cal Grant A awards shall be augmented by

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	115 grants, for a total of 17,515 grants in the 1990–91 fiscal year, and the number of new Cal Grant B awards shall be augmented by 480 grants, for a total of 12,730 grants in the 1990–91 fiscal year. The Cal Grant B maximum subsistence award shall be increased by $20 to a maximum of $1,430 in the 1990–91 fiscal year, and the Cal Grant A and B maximum award shall be increased by $108 to a maximum of $5,358. The Community Services Scholarship Program authorized pursuant to Chapter 1188, Statutes of 1989, shall be funded in the amount of $1,796,000. Notwithstanding any other provision of law, of the 17,515 new grants funded in Schedule (a) for Cal Grant A for the 1990–91 fiscal year, 500 grants shall be awarded to community college students who transfer to a four-year college or university. 3. Notwithstanding any other provisions of law, of the 12,730 new grants funded in Schedule (a) for Cal Grant B for the 1990–91 fiscal year, 250 grants shall be awarded to community college students who transfer to a four-year college or university. 4. Upon approval of the Director of Finance, the Student Aid Commission may transfer funds as necessary within category (a) to accommodate program element changes, not sooner than 30 days after written notification by the Director of Finance of the necessity therefor to the Joint Legislative Budget Committee, or not sooner than whatever lesser time the committee, or its designee, may in each instance determine. 5. If federal trust funds for the 1990–91 fiscal year exceed budgeted levels, the funds appropriated shall, to the extent allowable by federal law, be reduced on a dollar-per-dollar basis. 6. Eligibility for money appropriated by this item is limited to students who demonstrate financial need according to nationally accepted needs analysis methodologies, who meet other Student Aid Commission eligibility criteria, and whose income or family's gross income does not exceed $57,000 for the purposes of determining recipients for the 1990–91 award year. 7. The Student Aid Commission shall grant only renewal awards under the Bilingual Teacher	

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program element in 1990–91. No new lower division awards under this program shall be offered.		
8. It is the intent of the Legislature that of the amount appropriated in this item, $2,500,000 shall be used for the purpose of providing Cal Grants necessary as a result of increasing resident student fees to 10 percent at the University of California and the California State University.		
7980-101-890—For local assistance, Student Aid Commission, for payment to Item 7980-101-001, payable from the Federal Trust Fund		13,231,000
7980-495—Reversion, California Student Aid Commission. As of June 30, 1990, $5,000,000 of the unencumbered balance of the appropriation provided in the following citation shall revert to the Special Fund for Economic Uncertainties:		
001—General Fund		
(1) Item 7980-101-001(a), Budget Act of 1989, 15-Financial Aid Grants Program.		

GENERAL GOVERNMENT

8100-001-001—For support of Office of Criminal Justice Planning		5,044,000
Schedule:		
(a) 20.01-Administration	2,217,000	
(b) 20.02-Distributed Administration	−3,208,000	
(c) 50-Local Project Awards	11,161,000	
(d) Reimbursements	−1,024,000	
(dx) Amount payable from Asset Forfeiture Distribution Fund (Item 8100-001-196)	−67,000	
(e) Amount payable from Local Public Prosecutors and Public Defenders Training Fund (Item 8100-001-241)	−77,000	
(f) Amount payable from Victim/Witness Assistance Fund (Item 8100-001-425)	−2,207,000	
(g) Amount payable from the Federal Trust Fund (Item 8100-001-890)	−1,751,000	
8100-001-196—For support of Office of Criminal Justice Planning, for payment to Item 8100-001-001, payable from the Asset Forfeiture Distribution Fund		67,000

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8100-001-241—For support of Office of Criminal Justice Planning, for payment to Item 8100-001-001, payable from the Local Public Prosecutors and Public Defenders Training Fund		77,000
Provisions:		
1. Notwithstanding any other provisions of law restricting the costs of administering individual programs, the full amount of this appropriation may be used by the Office of Criminal Justice Planning for administrative costs.		
8100-001-425—For support of Office of Criminal Justice Planning, for payment to Item 8100-001-001, payable from the Victim/Witness Assistance Fund		2,207,000
8100-001-890—For support of Office of Criminal Justice Planning, for payment to Item 8100-001-001, payable from the Federal Trust Fund		1,751,000
8100-101-001—For local assistance, Office of Criminal Justice Planning, Program 50, Local Project Awards		22,906,000
Schedule:		
(a) 50.21.040-Domestic Violence Program	1,500,000	
(b) 50.21.050-Victims Legal Resources Center	180,000	
(c) 50.31.010-California Community Crime Resistance Program, to be allocated pursuant to Chapter 5 (commencing with Section 13840) of Title 6 of Part 4 of the Penal Code	962,000	
(d) 50.31.060-Family Violence Prevention	202,000	
(e) 50.41.020-Suppression of Drug Abuse in Schools Program	3,006,000	
(f) 50.41.030-California Gang Violence Suppression Program	5,027,000	
(g) 50.41.045-Homeless Youth Project	920,000	
(h) 50.51.010-California Career Criminal Prosecution Program, to be allocated pursuant to Chapter 2.3 (commencing with Section 999b) of Title 6 of Part 2 of the Penal Code	4,153,000	
(i) 50.51.020-Major Narcotic Vendors Prosecution Program	2,751,000	
(j) 50.51.030-Child Sexual Assault Prosecution Program	1,358,000	

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(k) 50.61.010-Public Prosecutors and Public Defenders	30,000	
(*l*) 50.61.020-Child Sexual Abuse Prevention and Training	700,000	
(m) 50.71.010-California Career Criminal Apprehension Program	2,404,000	
(n) 50.71.040-Youth Emergency Telephone Referral	211,000	
(o) 50.71.060-Vertical Defense	721,000	
(p) 50.71.110-Serious Habitual Offender	570,000	
(r) Reimbursements	−1,789,000	

Provisions:

1. The amount appropriated in Schedule (h) shall only be awarded to local governmental entities which provide a minimum 10 percent local cash match for the state General Fund amount allocated.
2. Notwithstanding any other provisions of law, the Office of Criminal Justice Planning may provide advance payment of up to seventeen percent of grants funds awarded to community-based, non-profit organizations, cities, school districts, counties, and other units of local government which have demonstrated cash-flow problems according to the criteria set forth by the office.

8100-101-196—For local assistance, Office of Criminal Justice Planning, Program 50, Local Project Awards, payable from the Asset Forfeiture Distribution Fund 1,000,000

Schedule:

50.71.130 Gang Risk Intervention Pilot Program	1,000,000

Provisions:

1. Subject to the availability of funds, moneys in this item shall be disbursed to the Los Angeles County Office of Education to fund grants and administer the Gang Risk Intervention Pilot Program only after sufficient revenues have been received to fully fund the obligation of Section 11489(b)(3) of the Health and Safety Code, requiring an appropriation of $1,500,000 to the State Department of Mental Health for the Primary Prevention Program.
2. The Office of Criminal Justice Planning shall comply with the provisions of Chapter 1492 of

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the Statutes of 1988 and distribute appropriate funds from the Asset Forfeiture Distribution Fund to the Peace Officer Standards and Training Commission (85%) and the California District Attorney Association (15%).		
8100-101-241—For local assistance, Office of Criminal Justice Planning, Program 50, Local Project Awards, payable from the Local Public Prosecutors and Public Defenders Training Fund		908,000
Provisions:		
1. Notwithstanding any other provisions of law, the Office of Criminal Justice Planning may provide advance payment of up to seventeen percent grant funds awarded to community-based, non-profit organizations, cities, school districts, counties, and other units of local government which have demonstrated cash-flow problems according to the criteria set forth by the office.		
8100-101-425—For local assistance, Office of Criminal Justice Planning, Program 50, Local Project Awards, payable from the Victim/Witness Assistance Fund		15,520,000
Schedule:		
(a) 50.21.010-Victim/Witness Assistance Program	10,872,500	
(b) 50.21.020-Rape Crisis Program	3,669,500	
(c) 50.21.030-Child Sexual Abuse and Exploitation Program	978,000	
Provisions:		
1. Notwithstanding any other provisions of law, the Office of Criminal Justice Planning may provide advance payment of up to seventeen percent of grant funds awarded to community-based, non-profit organizations, cities, school districts, counties, and other units of local government which have demonstrated cash-flow problems according to the criteria set forth by the office.		
2. The Office of Criminal Justice Planning shall obtain an independent audit of expenditures of Victim/Witness Assistance Program funds to ensure that funds are used only for the purposes specified in Sections 13835.2, 13835.4, and 13835.5 of the Penal Code and that funds are not used in violation of Section 4001.1 of the Penal Code.		

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8100-101-890—For local assistance, Office of Criminal Justice Planning, Program 50, Local Project Awards, payable from the Federal Trust Fund.....		50,141,000
Schedule:		
(a) 50.21.040-Domestic Violence Program.....	735,000	
(b) 50.21.060-Victims of Crime Act (VOCA).....	6,552,000	
(c) 50.31.030-Federal Rape Prevention.....	400,000	
(d) 50.41.010-Juvenile Justice and Delinquency Prevention.....	4,442,000	
(e) 50.41.030-Gang Violence Suppression.....	505,000	
(f) 50.71.120-Federal Anti-Drug Abuse Program.....	37,507,000	
Provisions:		
1. Notwithstanding any other provisions of law, the Office of Criminal Justice Planning may provide advance payment of up to seventeen percent of grant funds awarded to community-based, non-profit organizations, cities, school districts, counties, and other units of local government which have demonstrated cash-flow problems according to the criteria set forth by the office.		
2. The Office of Criminal Justice Planning (OCJP) may approve allocation of additional federal funds that become available to augment programs under Schedule (f) of this item no sooner than 30 days after notification of availability of these funds to the Chairpersons of the Joint Legislative Budget Committee, the legislative fiscal committees, and the Senate Judiciary and Assembly Public Safety Committees.		
3. Any unappropriated federal Drug Control and System Improvement Grants shall be appropriated according to the following schedule:		
(a) To fund AB 4087 of the 1989–90 Regular Session, if enacted.....	4,000,000	
(b) To provide funds for the development and implementation of substance abuse programs for the Department of Corrections	2,400,000	
(c) To fund AB 3567 of the 1989–90 Regular Session, if enacted.....	2,000,000	

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(d) To the California Highway Patrol to expand the Commercial Operator Narcotic and the Enforcement Team, the Drug Canine Program, and the Operation Pipeline Program	1,700,000	
(e) To implement the gang/drug trafficking information system in the Office of Criminal Justice Planning	1,000,000	
(f) To the Department of the Youth Authority for implementation of its Drug and Alcohol Abuse Program Plan	500,000	
(g) To fund the Alternative Community Policing Program	4,000,000	
(h) To provide the Office of Criminal Justice Planning with funds for supporting "Project Challenge" (substance abuse treatment in county jail)	500,000	
(i) To fund the Campaign Against Marijuana Planting Program (CAMP)	2,700,000	
8100-111-001—For local assistance, Office of Criminal Justice Planning (Proposition 98), Program 50, Local Project Awards		0
Schedule:		
(a) 50.41.020—Suppression of Drug Abuse in Schools Program	2,666,000	
(b) Reimbursements	−2,666,000	
Provisions:		
1. The funds appropriated in this item shall be available for the suppression of drug abuse in schools or other community-based drug education programs pursuant to future legislation.		
8100-121-001—For local assistance, (Proposition 98), Office of Criminal Justice Planning, Program 50, Local Project Awards		26,700,000
Schedule:		
(a) 50.41.020 Suppression of Drug Abuse in Schools Program	26,700,000	
Provisions:		
1. Notwithstanding of Section 13864 of the Penal Code, which establishes the Comprehensive Alcohol and Drug Prevention Education (CADPE) Program supplementing the suppres-		

Item		Amount
sion of Drug Abuse in Schools Program, for grades 4 through 6, $10,000,000 is appropriated in this item to be made available to school districts or county offices of education for the following: (a) $230,000 shall be redirected to Item 8100-101-001 to implement the provisions of AB 2065 (Chapter 1456 of the Statutes of 1989). These funds shall be provided to the Counties of San Mateo and Orange for purposes of contracting with a nonprofit agency for field testing a substance abuse prevention model using athletes as role models. (b) $2,000,000 for four pilot programs expanding the CADPE program ($500,000 for each pilot). The pilots will be located in the Counties of Alameda and Los Angeles (K–3 grades); and Orange and San Francisco (7–8 grades). (c) $7,770,000 to the county offices of education to (1) allocate the CADPE funds to school districts with the largest proportion of students who are at high risk of engaging in substance abuse, (2) develop criteria on which to base the above allocations and submit the criteria in their CADPE application to the Office of Criminal Justice Planning, and (3) within school districts, give priority for the expenditure of CADPE funds to establishing, expanding, or improving programs that target students at high risk of abusing alcohol and drugs.		
8120-001-268—For support of Commission on Peace Officer Standards and Training, payable from the Peace Officers' Training Fund		7,714,000
Schedule:		
(a) 10-Standards	3,672,000	
(b) 20-Training	5,967,000	
(c) 30-Peace Officer Training Reimbursement	70,000	
(d) 40.01-Administration	2,589,000	
(e) 40.02-Distributed Administration	−2,589,000	
(f) Amount payable from the Peace Officers' Training Fund (Item 8120-011-268)	−1,995,000	

Item	Amount
8120-011-268—For support of Commission on Peace Officer Standards and Training, for payment to Item 8120-001-268, payable from the Peace Officers' Training Fund	1,995,000
Provisions: 1. Funds are to be used for contractual services in support of local training programs, pursuant to Section 13503(c) of the Penal Code. 2. Funds may be transferred between this item and Item 8120-101-268 to meet the needs of local training programs.	
8120-101-268—For local assistance, Commission on Peace Officer Standards and Training, Program 30, for allocation to cities, counties, and cities and counties pursuant to Section 13523 of the Penal Code, payable from the Peace Officers' Training Fund	35,000,000
Provisions: 1. Funds may be transferred between this item and Item 8120-011-268 to meet the needs of local training programs. 2. The Director of Finance may authorize the augmentation of the total amount available for expenditure under this item in the amount of revenue received by the Peace Officers' Training Fund which is in addition to the revenue appropriated by this item, not sooner than 30 days after notification in writing to the chairpersons of the respective fiscal committees and the Chairperson of the Joint Legislative Budget Committee. The director may authorize these augmentations only up to the amount needed to reach the goal of providing 100 percent salary reimbursement to the cities and counties.	
8140-001-001—For support of State Public Defender ...	11,109,000
Schedule: (a) 10-State Public Defender ..... 11,113,000 (b) Reimbursements ..... −4,000	
Provisions: 1. Any federal funds received by the Office of the State Public Defender as reimbursements for legal services provided for capital cases shall revert to the unappropriated surplus of the General Fund.	
8180-101-001—For local assistance, Payment to Counties for Costs of Homicide Trials, for payment by the State Controller	3,875,000

Item Amount

Provisions:

1. This item is for payment to counties for costs of homicide trials pursuant to Sections 15201 to 15203, inclusive, of the Government Code, provided that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.
2. The Controller shall reimburse counties for reasonable and necessary expenses incurred pursuant to Section 15202 of the Government Code, except that reimbursements to a county shall not exceed: (a) for attorney services, an hourly rate equal to that county's average hourly cost for public defenders, the hourly rate paid to appointed counsel, or the hourly rate charged state agencies by the Attorney General for attorney services, whichever rate is less; (b) for investigators, an hourly rate equal to that county's average hourly cost for county-employed investigators, or the hourly rate charged state agencies by the Attorney General for investigators, whichever rate is less; and (c) for expert witnesses, the hourly rate that the county generally pays for these services.
3. The Department of Finance shall develop standards for implementation of the local-match waiver procedure, and shall report, by January 1, 1991, to the Joint Legislative Budget Committee and the fiscal committees of the Legislature regarding the standards developed, the waiver requests received, and the disposition of each request.

8190-001-001—For the administration and payment of tort liability claims, settlements, compromises and judgments against the state, its officers, servants and employees of state agencies, departments, boards, bureaus or commissions supported from the General Fund, for expenditure by the Department of Justice, subject to approval of the Department of Finance in its discretion 1,000

Provisions:

1. In the event that expenditures for purposes of Item 8190-001-001 exceed the amount appropriated in this item, the Director of Finance may allocate sufficient amounts, not to exceed $1,200,000, from the Special Fund for Economic Uncertainties, to this item.

Item	Amount
2. There is hereby appropriated from each fund, other than the General Fund, an amount sufficient for payment of tort liability claims, settlements, compromises, and judgments against the state, its officers, servants and employees of state agencies, departments, boards, bureaus, or commissions, arising from activities supported from that fund. No expenditure from any appropriation from a fund other than the General Fund for payment of tort liability claims, settlements, compromises, and judgments shall be made unless approved by the Department of Finance in its discretion.	
3. Expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.	
4. Payment under this item is limited in amount to claims, settlements, compromises, and judgments which do not exceed $70,000, exclusive of interest, and no payment from this item exceeding that amount shall be approved by the Department of Finance or made by the Department of Justice.	
5. No payment shall be approved by the Department of Finance or made by the Department of Justice from this item except in full and final satisfaction of the claim, settlement, compromise, or judgment upon which the payment is based.	
6. Funding for the payment of tort liability claims, settlements, compromises, and judgments which require the approval of the Director of Finance shall first be considered from within the affected agency, department, board, bureau, or commission's existing budgeted resources. Payment pursuant to this item (from the General Fund or funds other than the General Fund) shall be made only after the affected agency, department, board, bureau, or commision has demonstrated to the Department of Finance that insufficient funds are available for payment of all or a portion of the claim.	
8200-001-001—For support of Commission for Economic Development	610,000
Schedule:	
(a) 10-Commission for Economic Development 613,000	
(b) Reimbursements ..... −3,000	

Item		Amount
8260-001-001—For support of California Arts Council..		2,853,000
Schedule:		
(a) 10-Artists in Residence.....	801,000	
(b) 20-Organizational Grants.....	1,412,000	
(c) 25-Performing Arts Touring/Presenting Program.....	440,000	
(d) 40-Statewide Projects.....	665,000	
(e) 45-California Challenge Program.	84,000	
(f) 50.01-Administration.....	1,348,000	
(g) 50.02-Distributed Administration.	−1,548,000	
(h) Amount payable from the Federal Trust Fund (Item 8260-001-890)..	−349,000	
8260-001-890—For support of the California Arts Council, for payment to Item 8260-001-001, payable from the Federal Trust Fund.....		349,000
8260-101-001—For local assistance, California Arts Council for grants and subventions.....		12,000,000
Schedule:		
(a) 10-Artists in Residence.....	2,082,000	
(b) 20-Organizational Grants.....	7,380,000	
(c) 25-Performing Arts Touring/Presenting Program.....	667,000	
(d) 40-Statewide Projects.....	1,871,000	
Provisions:		
1. Funds appropriated for the Small and Mid-size Organizations element and the Large Budget Organizations element of the Organizational Grants program shall not be expended unless the grant recipient provides at least a dollar-for-dollar cash match. No matching funds shall be required for grants to individual artists.		
8260-101-890—For local assistance, California Arts Council, payable from the Federal Trust Fund....		615,000
Schedule:		
(a) 10-Artists in Residence.....	283,000	
(b) 20-Organizational Grants.....	214,000	
(c) 25-Performing Arts Touring/Presenting Program.....	118,000	
Provisions:		
1. Any organization applying for a grant under the Large Budget Organizations element of the Organizational Grants program may not receive a grant under the Small and Mid-size Organizations element of the Organizational Grants program.		
2. Any organization applying for a grant under the Small and Mid-size Organizations element of		

Item		Amount
the Organizational Grants program may not receive a grant under the Large Budget Organizations element of the Organizational Grants program.		
3. Funds appropriated for the Small and Mid-size Organizations element and the Large Budget Organizations element of the Organizational Grants program shall not be expended unless the grant recipient provides at least a dollar-for-dollar cash match. No matching funds shall be required for grants to individual artists.		
8260-111-001—For local assistance, California Arts Council for California Challenge Program Grants		930,000
Provisions:		
1. Funds appropriated for the California Challenge Program shall not be expended unless the grant recipient provides matching funds through new and increased private contributions based on criteria established by the California Arts Council specifically for this program.		
8260-112-001—For local assistance, California Arts Council		200,000
Provisions:		
1. Funds appropriated in this item shall be allocated for support of local arts organizations for the purpose of partially fulfilling the state match requirement for receipt of federal funds from the National Endowment for the Arts Disaster Assistance Emergency Challenge Grant.		
8280-001-001—For support of Native American Heritage Commission, Program 10		323,000
8300-001-001—For support of Agricultural Labor Relations Board		6,806,000
Schedule:		
(a) 10-Board Administration	2,972,000	
(b) 20-General Counsel Administration	3,834,000	
(c) 30.01-Administrative Services	601,000	
(d) 30.02-Distributed Administrative Services	−601,000	
8320-001-001—For support of Public Employment Relations Board		6,420,000
Schedule:		
(a) 10-Dispute Resolution	5,122,000	
(b) 20-Representation	1,598,000	
(c) 30.01-Administration	1,335,000	

Item		Amount
(d) 30.02-Distributed Administration.	−1,335,000	
(e) Reimbursements	−300,000	
Provisions:		
1. Until March 31, 1991, the Public Employment Relations Board (PERB) shall assist, to the extent allowed by law, in the formation of a private nonprofit corporation dedicated to the promotion and administration of an Improved Employer-Employee Relations Program (IEERP).		
2. Effective April 1, 1991, the duties and responsibilities for IEERP shall be transferred from PERB to the private nonprofit corporation (formed pursuant to California law) established for that purpose. PERB is prohibited thereafter from using private or public resources to directly administer IEERP.		
3. PERB shall, to the extent practicable given PERB's statutory duties and financial resources, assist the private nonprofit corporation in the performance of its duties.		
8350-001-001—For support of Department of Industrial Relations		49,686,000
Schedule:		
(a) Program operations	116,470,000	
(b) 30-Workers' Compensation Administration	72,019,000	
(j) 94.02-Distributed Administration	−13,328,000	
(k) Reimbursements	−2,339,000	
(*l*) Amount payable from the Farm Labor Contractor's Special Account (Item 8350-001-023)	−50,000	
(m) Amount payable from the Industrial Relations Construction Industry Enforcement Fund (Item 8350-001-216)	−643,000	
(n) Amount payable from Workers' Compensation Administration Revolving Fund (Item 8350-001-223)	−72,714,000	
(o) Amount payable from the Self-Insurance Plans Fund (Item 8350-001-396)	−1,937,000	
(p) Amount payable from the Elevator Safety Inspection Account, General Fund (Item 8350-001-452)	−3,468,000	

Item	Amount
(q) Amount payable from the Pressure Vessel Inspection Account, General Fund (Item 8350-001-453)	−3,239,000
(r) Amount payable from the Garment Manufacturer's Special Account (Item 8350-001-481)	−50,000
(s) Amount payable from the Employee's Account, Uninsured Employer's Fund (Item 8350-001-571)	−22,927,000
(t) Amount payable from the Federal Trust Fund (Item 8350-001-890)	−18,048,000
(u) Amount payable from the Industrial Relations Unpaid Wage Fund (Labor Code Section 96.6)	−60,000
Provisions:	
1. Of the funds appropriated for support of Schedule (d), $246,000 shall be encumbered for (a) routine compliance activities of the Cal/OSHA field enforcement program related to schoolsite asbestos abatement projects, (b) monitoring and compliance inspections covering a 10-percent random sample of school asbestos abatement projects, and (c) registration of asbestos abatement contractors.	
8350-001-023—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Farm Labor Contractor's Special Account	50,000
8350-001-216—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Industrial Relations Construction Industry Enforcement Fund	643,000
8350-001-223—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Workers' Compensation Administration Revolving Fund	72,714,000
Provisions:	
1. The $1,100,000 appropriated in this item for proposed facilities operations shall be spent only on lease costs associated with expansion of the workers' compensation program.	
8350-001-396—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Self-Insurance Plans Fund	1,937,000

Item		Amount
8350-001-452—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Elevator Safety Inspection Account, General Fund		3,468,000
8350-001-453—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Pressure Vessel Inspection Account, General Fund		3,239,000
8350-001-481—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Garment Manufacturer's Special Account		50,000
8350-001-571—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Employee's Account, Uninsured Employer's Fund		22,927,000
8350-001-890—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Federal Trust Fund		18,048,000
8350-011-001—For support of Department of Industrial Relations, payable from the General Fund, for transfer to the Uninsured Employer's Account		19,800,000
8350-012-001—For support of Department of Industrial Relations, Workers' Compensation Administration, payable from the General Fund, for transfer to the Workers' Compensation Administration Revolving Fund		57,314,000
Schedule:		
(a) 30-Workers' Compensation Administration	59,611,000	
(b) Less amount funded in Employee Compensation Item 9800-001-001.	−1,537,000	
(c) Less amount funded in Item 8350-015-001	−760,000	
Provision:		
1. Notwithstanding any other provision of law, the amount appropriated in this item shall be the maximum amount of funds from the General Fund allocated for Workers' Compensation Administration. All program costs in excess of this amount shall be funded from assessments on employers as described in Section 62.5 of the Labor Code.		
8350-015-001—For support of Department of Industrial Relations, for payment to Item 8350-015-223, payable from General Fund		760,000

Item		Amount
8350-015-223—For support of Department of Industrial Relations		1,197,000
Schedules:		
(a) 30.30-Industrial Medical Council	1,957,000	
(b) Amount payable from General Fund (Item 8350-015-001)	−760,000	

8350-495—Reversion, Department of Industrial Relations. Notwithstanding any other provision of law, on June 30, 1990, the amounts indicated below shall revert to the funds designated:

001—General Fund

(1) $1,050,000 of the funds appropriated by Chapter 893 of the Statutes of 1989 for the purpose of workers' compensation reform shall revert to the General Fund to reflect savings associated with position vacancies.

(2) $153,000 of the funds appropriated by Chapter 893 of the Statutes of 1989 for the purpose of workers' compensation reform shall revert to the General Fund to more accurately reflect equipment needs.

(3) $3,328,000 of the funds appropriated in Item 8350-001-001 of, and $92,000 of the funds appropriated in Item 8350-001-890 of, the Budget Act of 1989 for the purposes of the Cal/OSHA program shall revert to the General Fund and the Federal Trust Fund, respectively, to reflect savings associated with position vacancies.

(4) $1,812,000 of the funds appropriated in Item 8350-001-001 of the Budget Act of 1989 for the purposes of the Cal/OSHA program shall revert to the General Fund to reflect the availability of federal funds for this purpose.

(5) Notwithstanding Section 62.5 of the Labor Code, $1,500,000 of the funds appropriated in Item 8350-001-001 of the Budget Act of 1989 for administration of the Workers' Compensation Program shall revert to the General Fund. This reversion shall not affect the requirement established by Chapter 893, Statutes of 1989 that the department shall reimburse the General Fund loan authorized by that act fully from employer assessments.

8380-001-001—For support of Department of Personnel Administration		8,519,000
Schedule:		
(a) 20-Labor Relations	1,655,000	

Item		Amount
(b) 25-Legal	1,069,000	
(c) 40.01-Administration	3,175,000	
(d) 40.02-Distributed Administration	−3,175,000	
(e) 52-Classification and Compensation	4,064,000	
(f) 54-Benefits Administration	3,634,000	
(g) 56-Training and Development	2,362,000	
(h) 58-Merit Award	360,000	
(i) Reimbursements	−2,789,000	
(j) Amount payable from the Flexelect Benefit Fund (Item 8380-001-821)	−606,000	
(k) Amount payable from the Deferred Compensation Plan Fund (Item 8380-001-915)	−1,230,000	

Provisions:

1. Notwithstanding any other provision of law, the Department of Personnel Administration and the Department of Finance shall ensure that the amount in the Child Care Fund established pursuant to Section 19822.6 of the Government Code shall not be reduced below $90,000 until the Department of General Services enters into a contract with the County of Los Angeles for the purpose of establishing a San Fernando Valley child care center.

8380-001-821—For support of Department of Personnel Administration, for payment to Item 8380-001-001, payable from the Flexelect Benefit Fund 606,000

8380-001-915—For support of Department of Personnel Administration, for payment to Item 8380-001-001, payable from the Deferred Compensation Plan Fund 1,230,000

8450-001-001—For support of Workers' Compensation Benefit Program, for payment of the additional compensation for subsequent injuries provided for by Sections 4750 through 4755 of the Labor Code 3,720,000

Schedule:

(a) Payment of Claims	4,626,000
(b) Support, State Compensation Insurance Fund	236,000
(c) Prelitigation Expenses	170,000
(d) Support, Department of Industrial Relations	688,000

Item Amount

(e) Amount payable from Subsequent Injuries Moneys, General Fund (Item 8450-001-016) ..... —2,000,000

Provisions:

1. This item shall not be construed as a limitation on expenditures provided by Item 8450-001-016.
2. The amount available from this item shall not be available for expenditure at any time that funds appropriated by Item 8450-001-016 are available for expenditure.
3. At the end of fiscal year 1990–91, any expenditures made from the General Fund against this appropriation item shall be reduced by any amounts remaining available from the funds appropriated by Item 8450-001-016.

8450-001-016—For payment of workers' compensation benefits for subsequent injuries, for payment to Item 8450-001-001, payable from the account for Subsequent Injuries Moneys, General Fund 2,000,000

8460-101-001—For local assistance, Workers' Compensation Benefits for Disaster Service Workers 663,000

Provisions:

1. This item is for furnishing of workers' compensation to disaster service workers and their dependents, in accordance with Division 4 (commencing with Section 3200) of the Labor Code, including the reimbursing of the State Compensation Insurance Fund for the cost of services as adjusting agent, Governor's office, Office of Emergency Services. The State Compensation Insurance Fund may draw from the State Treasury out of the appropriation made by this item, without at the time presenting vouchers and itemized statements, any portion of the appropriation contained in this item, to be used as a cash revolving fund. Expenditures made from the revolving fund in payment of claims for workers' compensation and adjusting services are excepted from the operation of Section 925.6 of the Government Code. Reimbursement of the revolving fund for such expenditures shall be made upon presentation to the State Controller of an abstract or statement of such expenditures. Such abstract or statement shall be in such form as the State Controller requires.

Item		Amount
8500-001-152—For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners Fund		1,225,000
Schedule:		
(a) 10-Board of Chiropractic Examiners	1,228,000	
(b) Reimbursements	−3,000	
Provisions:		
1. Of the funds appropriated in this item, $168,000 shall be available to the Board of Chiropractic Examiners only for attorney's fees and legal costs relating to the lawsuit filed against the board on the adoption of Regulation 302. This amount shall be available on a one-time basis during the 1990–91 fiscal year.		
8510-001-264—For support of Board of Osteopathic Examiners of the State of California, payable from the Board of Osteopathic Examiners Contingent Fund		399,000
Schedule:		
(a) 10-Board of Osteopathic Examiners	401,000	
(b) Reimbursements	−2,000	
8530-001-290—For support of Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun, payable from the Board of Pilot Commissioners' Special Fund		691,000
Schedule:		
(a) 10.01 Support	257,000	
(b) 10.02 Training	434,000	
8540-001-114—For support of California Auctioneer Commission, Program 10, payable from the Auctioneer Commission Fund		274,000
8550-001-191—For support of California Horse Racing Board, payable from the Fair and Exposition Fund.		8,268,000
Schedule:		
(a) 100000-Personal Services	2,837,000	
(b) 300000-Operating Expenses and Equipment	5,741,000	
(c) Amount payable from the Racetrack Security Account, Special Deposit Fund (Item 8550-001-942)	−310,000	
Provisions:		
2. Of the amount appropriated in this item, $77,000 shall be used for a contract to develop an outreach program to ensure adequate representation of women and minorities on the board's		

Item		Amount
staff and personal services contractors.		
8550-001-942—For support of the California Horse Racing Board, for payment to Item 8550-001-191, payable from the Racetrack Security Account, Special Deposit Fund		310,000
8550-011-942—Notwithstanding paragraph (1) of subdivision (b) of Section 19641 of the Business and Professions Code, there is hereby transferred to the General Fund the unencumbered balance of the Racetrack Security Account, Special Deposit Fund, as of June 30, 1991		(2,100,000)
8560-001-510—For support of California Exposition and State Fair, provided that the expenditures from the appropriation made by this item shall not exceed those operating revenues deposited in the California Exposition and State Fair Enterprise Fund by the California Exposition and State Fair		15,131,000
Schedule:		
(a) 100000-Personal Services	7,540,000	
(b) 300000-Operating Expenses and Equipment	8,776,000	
(c) Reimbursements	−900,000	
(d) Amount payable from the State Fair Police Special Account (Item 8560-011-466)	−20,000	
(e) Amount payable from the Fair and Exposition Fund (B&P Code Sec. 19622(a))	−265,000	
Provisions:		
1. The amount appropriated by subdivision (a) of Section 19622 of the Business and Professions Code shall be transferred by the State Controller to this item.		
2. The Director of Finance may authorize augmentations of up to a total of 10% of the amount available for expenditure from the California Exposition and State Fair Enterprise Fund in this item if the California Exposition and State Fair has certified in writing that there is sufficient money in the reserve of the California Exposition and State Fair Enterprise Fund to cover the augmentation.		
3. It is the intent of the Legislature that the funds made available from the appropriation made in this item may be expended for promotional and public relations purposes of the California Expo-		

Item		Amount
sition and State Fair pursuant to subdivision (a) of Section 4403 of the Food and Agricultural Code.		
4. Of the funds appropriated in Schedule (b), $75,000 shall be made available for payment of attorney's fees.		
8560-011-466—For support of California Exposition and State Fair, for payment to Item 8560-001-510, payable from the State Fair Police Special Account...		20,000
8560-301-510—For capital outlay, California Exposition and State Fair, payable from the California Exposition and State Fair Enterprise Fund		908,000
Schedule:		
(a) 50.10-Minor projects.....	908,000	
8570-001-001—For support of Department of Food and Agriculture		72,260,000
Schedule:		
(a) 10-Pesticide Regulatory Program.	32,707,000	
(b) 20-Plant Pest and Disease Prevention	28,631,000	
(c) 25-Animal Pest and Disease Prevention/Inspection Services.....	20,715,000	
(d) 30-Agricultural Marketing Services.....	5,002,000	
(e) 40-Food and Agricultural Standards and Inspection Services.....	3,535,000	
(f) 50-Measurement Standards.....	2,649,000	
(g) 60-Financial and Administrative assistance to local fairs	2,131,000	
(h) 70.01-Exec. Mgmt. and Admin. Svcs.....	8,899,000	
(i) 70.02-Distributed Exec. Mgmt. and Admin. Svcs.	−7,841,000	
(j) 80-Gen. Agriculture Activities and Emergency Funding.....	6,976,000	
(k) Reimbursements.....	−1,964,000	
(*l*) Amount payable from the Special Account for Capital Outlay (Item 8570-001-036)	−822,000	
(m) Amount payable from the Agriculture Fund (Item 8570-001-111)	−21,009,000	
(n) Amount payable from the Agricultural Pest Control Research Account (Item 8570-011-112).....	−403,000	
(p) Amount payable from the Unitary Fund (Item 8570-001-147)	−1,000,000	

Item	Amount
(q) Amount payable from the Fair and Exposition Fund (Item 8570-001-191)	−1,302,000
(r) Amount payable from the Satellite Wagering Account (Item 8570-012-192)	−298,000
(s) Amount payable from the Food Safety Account (Item 8570-001-224)	−1,683,000
(t) Amount payable from the Harbor and Water Craft Revolving Fund (Item 8570-001-516)	−300,000
(u) Amount payable from the Agriculture Building Fund (Item 8570-001-601)	−1,284,000
(v) Amount payable from the Federal Trust Fund (Item 8570-001-890)	−2,079,000

Provisions:

1. Funds appropriated to Schedule (j) from Item 8570-001-111 are in lieu of the appropriation provided by subdivision (b) of Section 224 of the Food and Agricultural Code for emergency detection, eradication, or research of agricultural plant or animal pests or diseases. The Director of Food and Agriculture may expend the funds with the approval of the Director of Finance. The funds which are so appropriated are not subject to Section 6.50 of this act.

8570-001-036—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Special Account for Capital Outlay	822,000
8570-001-111—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Agriculture Fund	21,009,000
8570-001-147—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Unitary Fund	1,000,000
8570-001-191—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Fair and Exposition Fund	1,302,000
8570-001-224—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Food Safety Account	1,683,000

Item		Amount
8570-001-516—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Harbors and Watercraft Revolving Fund		300,000
8570-001-601—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Agriculture Building Fund		1,284,000
Provisions:		
1. Funds appropriated by this item are in lieu of the appropriation made by Section 624 of the Food and Agricultural Code.		
8570-001-890—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Federal Trust Fund		2,079,000
8570-011-112—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Agricultural Pest Control Research Account		403,000
8570-011-191—For transfer by the State Controller from the Fair and Exposition Fund to the General Fund, for health benefits for retired employees of district agricultural associations		(698,000)
8570-012-192—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Satellite Wagering Account		298,000
8570-101-001—For local assistance, Department of Food and Agriculture		10,942,000
Schedule:		
(a) 10-Pesticide Regulatory Program	2,915,000	
(b) 20-Plant Pest and Disease Prevention	7,586,000	
(c) 50-Measurement Standards	475,000	
(d) 60-Financial and Administrative Assistance to local fairs	950,000	
(e) 80-General Agricultural Activities and Emergency Funding	383,000	
(f) Amount Payable from the General Fund (Item 8570-111-001)	−383,000	
(g) Amount Payable from the Agriculture Fund (Item 8570-101-111)	−34,000	
(h) Amount Payable from the Fair and Exposition Fund (Item 8570-101-191)	−950,000	
Provisions:		
1. In providing assistance to counties under category (c) of this item, the department shall re-		

Item	Amount
quire each county to (1) use these funds for any weights and measures program activity, giving first priority to quantity control activities of statewide or regional benefit; and (2) maintain county support (from county general funds or fees) for quantity control activities at 1984–85 levels at a minimum. Counties may use state funds for inspections at retail and other locations if those inspections address specific statewide needs identified by the department.	
2. State funds appropriated to local fairs under category (d) of this item shall be used, in part, to employ a veterinarian who will be present at all rodeo or rodeo-related activities on the fairgrounds for the purpose of treating injuries to participating animals. The veterinarian shall have complete access to the site of the event and shall have the right to declare any animal unfit to participate in any event.	
8570-101-111—For local assistance, Department of Food and Agriculture, for payment to Item 8570-101-001, payable from the Agriculture Fund.....	34,000
8570-101-191—For local assistance, Department of Food and Agriculture, for payment to Item 8570-101-001, payable from the Fair and Exposition Fund.....	950,000
Provisions:	
1. The funds appropriated in this item are for the following:	
Unemployment insurance at local fairs..... 950,000	
2. The funds in Provision 1 (a) are appropriated for the contributions, or the cost of benefits in lieu of contributions, payable from the Fair and Exposition Fund to the Unemployment Fund by all entities conducting fairs, including county, district, combined county and district, and citrus fruit fairs receiving funds pursuant to Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code, as a result of unemployment insurance coverage pursuant to Section 605 of the Unemployment Insurance Code.	
8570-111-001—For local assistance, Department of Food and Agriculture, for payment to Item 8570-101-001.....	383,000

Item			Amount
Provisions:			
1. The funds in this item are also available for compensation for services performed for agricultural departments and are to be expended in accordance with the provisions of Sections 2221 to 2224, inclusive, of the Food and Agricultural Code.			
8570-301-036—For capital outlay, Department of Food and Agriculture, payable from the Special Account for Capital Outlay			879,000
Schedule:			
(1) 90.47.015—Sacramento: Plant Industry Laboratory—Working drawings		717,000	
(2) 90.47.020—Sacramento: Chemistry Lab HVAC/Hoods Replacement and Space Retrofit—Preliminary plans and working drawings		162,000	
8570-301-601—For capital outlay, Department of Food and Agriculture, payable from the Agriculture Building Fund			68,000
Schedule:			
(1) 90.90.010—Minor Projects		68,000	
8620-001-001—For support of the Fair Political Practices Commission			2,899,000
Schedule:			
(a) 10.10-Local enforcement		858,000	
(b) 10.20-Legal, technical assistance and state enforcement		2,041,000	
8640-001-001—For support of Political Reform Act of 1974, the following sums are hereby appropriated to, and in augmentation of, the following agencies and officers for the administration, investigation and regulation of the political campaigns, officials, and lobbyists			2,120,000
Schedule:			
(a) 10-Secretary of State		714,000	
(1) For transfer by the State Controller to Item 0890-001-001 as follows:			
(a) Personal Services	456,000		
(b) Operating Expenses and Equipment	258,000		
(b) 20-Franchise Tax Board		1,190,000	

Item		Amount
(1) For transfer by the State Controller to Item 1730-001-001 as follows:		
(a) Personal Services.. 1,046,000		
(b) Operating Expenses and Equipment..... 144,000		
(c) 30-Department of Justice.....	224,000	
(1) For transfer by the State Controller to Item 0820-001-001 as follows:		
(e) 40-Criminal Law... 82,000		
(g) 50-Law Enforcement..... 142,000		
(d) 40-Fair Political Practices Commission.....	(2,972,000)	
(e) Reimbursements.....	−8,000	
(1) For transfer by the State Controller to Item 0890-001-001(d)		
8660-001-042—For support of Public Utilities Commission, for payment to Item 8660-001-412, payable from the State Highway Account, State Transportation Fund.....		1,686,000
8660-001-046—For support of Public Utilities Commission, for payment to Item 8660-001-412, payable from the Transportation Planning and Development Account, State Transportation Fund.....		2,828,000
8660-001-412—For support of Public Utilities Commission, payable from the Transportation Rate Fund.....		20,489,000
Schedule:		
(a) 100000-Personal Services.....	55,169,000	
(b) 300000-Operating Expenses and Equipment.....	21,364,000	
(c) Reimbursements.....	−2,524,000	
(d) Amount payable from the State Highway Account, State Transportation Fund (Item 8660-001-042).....	−1,686,000	
(e) Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 8660-001-046)....	−2,828,000	

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(f)	Amount payable from the Public Utilities Commission Transportation Reimbursement Account, General Fund (Item 8660-001-461)	−4,728,000
(g)	Amount payable from the Public Utilities Commission Utilities Reimbursement Account, General Fund (Item 8660-001-462)	−44,148,000
(h)	Amount payable from the Federal Trust Fund (Item 8660-001-890)	−130,000

Provisions:

1. The Public Utilities Commission shall require San Diego Gas and Electric Company (SDG&E) and Southern California Edison Company (SCE) to reimburse the Commission for the expenses of such consultants or advisory services as the Commission deems necessary to assist in its consideration of the proposed merger of SDG&E and SCE.
2. The Division of Ratepayers Advocates shall not spend any funds to challenge or dispute a collective bargaining agreement negotiated in good faith and at arms-length unless the division after preliminary review, can provide a preponderance of the evidence that the costs associated with the agreement are clearly unreasonable.
3. The Transportation Rate Fund shall be used only to administer and enforce the acts conferring on the Public Utilities Commission jurisdiction to regulate the rates of transportation agencies carrying property for compensation; to administer and enforce the Highway Carriers Act, the Motor Transportation Brokers Act, and the Household Goods Carriers Act; and to administer and enforce those provisions of Part 1 (commencing with Section 201) of Division 1 of the Public Utilities Code and other acts conferring jurisdiction on the commission over the rates, charges, and classifications of intrastate motor carriers of property for compensation. In this regard, in addition to the foregoing, the commission may utilize the funds it collects in the Transportation Rate Fund for the collection, aggregation, and analysis of data and information; for the enforcement of highway carrier certificate, permit, entry, and licensure require-

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ments including safety, financial responsibility, and insurance. 4. Of the amount appropriated in this item, $40,000 budgeted for the field office in San Diego may not be expended if the Public Utilities Commission has issued a final decision on the proposed merger between Southern California Edison and San Diego Gas and Electric on or before December 31, 1990.	
8660-001-461—For support of Public Utilities Commission, for payment to Item 8660-001-412, payable from the Public Utilities Commission Transportation Reimbursement Account, General Fund	4,728,000
8660-001-462—For support of Public Utilities Commission, for payment to Item 8660-001-412, payable from the Public Utilities Commission Utilities Reimbursement Account, General Fund.....	44,148,000
Provisions: 1. Of the amount appropriated in this item, $40,000 budgeted for the field office in San Diego may not be expended if the Public Utilities Commission has issued a final decision on the proposed merger between Southern California Edison and San Diego Gas and Electric by December 31, 1990.	
8660-001-890—For support of Public Utilities Commission, for payment to Item 8660-001-412, payable from the Federal Trust Fund	130,000
8700-001-001—For support of State Board of Control...	939,000
Schedule: (a) 11-Citizens Indemnification ..... 30,822,000 (b) 21-Hazardous Substance Claims... 20,000 (c) 31-Civil Claims Against the State. 1,231,000 (d) 51.01-Administration ..... 2,015,000 (e) 51.02-Distributed Administration . −2,015,000 (f) Reimbursements..... −312,000 (g) Amount payable from the Restitution Fund (Item 8700-001-214) ....−17,212,000 (h) Amount payable from the Federal Trust Fund (Item 8700-001-890) ..−13,610,000	
Provisions: 1. The Board of Control shall not routinely notify all local agencies and school districts regarding its proceedings. However, for each of its meetings, the board shall notify all parties whose	

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claims or proposals are scheduled for consideration and any party requesting notice of the proceedings.		
8700-001-214—For support of State Board of Control, for support services pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code, for payment to Item 8700-001-001, payable from the Restitution Fund		17,212,000
Provisions:		
1. The Board of Control shall report to the Joint Legislative Budget Committee within 30 days after the end of each month on the status of the Victims of Crime Program. This report shall include, but not be limited to, the number of claims received, the number of claims processed, the status of any claim backlog, the status of the claim processing time, staff vacancies, and the condition of the Restitution Fund. The board shall include in its report on claims processed the number of claims "zero awarded" (determined to be eligible for compensation but for which no payment has yet been issued), and the amount of expenses pending on these claims.		
8700-001-890—For support of the State Board of Control, for payment to Item 8700-001-001, payable from the Federal Trust Fund		13,610,000
8700-495—Reversion, State Board of Control. Notwithstanding any other provision of law, on June 30, 1990, the unencumbered balance of the appropriations provided in the following citations shall revert to the General Fund:		
964—Mediterranean Fruit Fly Claims Fund		
(1) Section 3, Chapter 332, Statutes of 1982		
8730-001-001—For support of Commission on State Finance, Program 10		868,000
8780-001-001—For support of Commission on California State Government Organization and Economy		758,000
Schedule:		
(a) 10-Commission on California State Government Organization and Economy	760,000	
(b) Reimbursements	−2,000	
8800-001-001—For support of Memberships in Interstate Organizations		820,750

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Schedule:		
(a) 10-Council of State Governments	258,000	
(b) 20-National Conference of State Legislatures	276,000	
(c) 30-Western States Legislative Forestry Task Force	22,000	
(cx) 35-Pacific Fisheries Legislative Task Force	5,750	
(d) 40-Governmental Accounting Standards Board	69,000	
(e) 50-State and Local Legal Center	8,000	
(f) 60-National Governors' Association	129,000	
(g) 70-Council of State Policy and Planning Agencies	12,000	
(h) 80-Coastal States' Organization	11,000	
(i) 90-Western Governors' Association	30,000	
8820-001-001—For support of Commission on the Status of Women		612,000
Schedule:		
(a) 100000-Personal Services	383,000	
(b) 300000-Operating Expenses and Equipment	229,000	
8830-001-001—For support of California Law Revision Commission, Program 10		660,000
Provisions:		
1. The commission shall not limit its scheduled meetings to Sacramento. On a periodic basis, meetings shall be held at other locations in the state, as determined by the commission.		
8840-001-001—For support of California Commission on Uniform State Laws		104,000
8860-001-001—For support of Department of Finance.		28,543,000
Schedule:		
(a) 10-Annual Financial Plan	12,953,000	
(b) 20-Program and Information System Assessments	7,438,000	
(c) 30-Supportive Data	9,013,000	
(d) 40.01-Administration	4,322,000	
(e) 40.02-Distributed Administration	−4,195,000	
(f) Reimbursements	−988,000	
Provisions:		
1. The funds appropriated in this item for CALSTARS shall be transferred by the State Controller, upon order of the Department of Finance,		

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or made available by the Department of Finance as a reimbursement, to other items and departments for CALSTARS related activities by the Department of Finance.	
2. The funds appropriated in this act for purposes of CALSTARS related data processing costs may be transferred between any items in this act by the State Controller upon order of the Director of Finance. Any funds so transferred shall be used only for support of CALSTARS related data processing costs incurred.	
3. No electronic data processing projects may be given sole source approval any sooner than 30 days after written notification of intention to grant sole source approval is provided to the fiscal committees and the Joint Legislative Budget Committee (JLBC) or any sooner than whatever lesser time the Chairperson of the JLBC shall determine.	
4. The Office of Information Technology (office) shall not have organizational responsibilities for the development or management of information technology programs within the Department of Finance (department). In addition, the office shall not be responsible for approving any data-processing systems within the department. The department shall not implement any change in systems which would have otherwise required approval by the office sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee (JLBC) or whatever lesser time the Chairperson of the JLBC, or his or her designee may determine.	
8885-001-001—For support of Commission on State Mandates, Program 10	675,000
8885-101-001—For local assistance, Commission on State Mandates, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or of Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, State Controller	64,197,000
Schedule:	
(2) 02.50.139.976—Custody of minors.	3,158,000
(4) 02.50.088.981—Lis pendens	47,000

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(6) 02.50.101.786—Investigations of Guardianships	0
(10) 02.50.108.882—Juvenile felony arrests	0
(11) 02.50.126.278—Victims' statements	0
(12) 06.90.103.280—Deaf teletype equipment	53,000
(13) 06.90.133.487—CPR pocket masks	110,000
(14) 08.20.046.278—Dental examinations	0
(15) 08.20.095.276—Marijuana records	0
(16) 08.20.120.385—Motorists' assistance	0
(17) 08.20.091.379—Domestic violence diversion	1,010,000
(18) 08.20.005.184—Missing persons' reports	0
(19) 08.20.160.984—Domestic violence information	5,775,000
(20) 08.20.156.284—Firearms	81,000
(21) 08.90.007.778—Absentee ballots	3,163,000
(22) 08.90.045.474—Filing fees	0
(23) 08.90.049.479—Handicapped voter access	227,000
(24) 08.90.070.475—Registration by mail	1,197,000
(25) 08.90.140.176—Voter roll purge	1,197,000
(26) 08.90.160.382—Democratic presidential delegates	105,000
(27) 08.90.104.285—Election materials	32,000
(28) 17.30.023.874—Substandard housing	118,000
(29) 17.30.149.084—Business tax reporting requirements	2,901,000
(30) 22.40.114.380—Regional housing needs	1,225,000
(31) 26.60.028.279—School crossing guards	0
(32) 26.60.111.784—Airport land use	0
(33) 34.80.113.175—Mineral resource policies	315,000
(34) 37.20.133.076—Local coastal plans	1,050,000

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(35) 42.60.045.374—Sudden infant death syndrome notices	27,000
(36) 42.60.116.381—Medi-Cal beneficiary death notices	84,000
(37) 42.60.159.788—AIDS testing	1,050,000
(38) 42.60.999.001—Pretreatment facilities	0
(38.5) 43.00.132.784—Short-Doyle audits	0
(39) 43.00.049.877—Coroners	78,000
(40) 43.00.064.480—Judicial proceeding	61,000
(41) 43.00.069.475—Attorney's fees	142,000
(42) 43.00.125.380—MR representation	79,000
(43) 43.00.130.480—Conservatorships	72,000
(44) 44.40.103.678—MDSO recommitments	404,000
(45) 44.40.135.285—Residential care services	1,829,000
(46) 54.60.999.001—Detention of minors	0
(46.1) 81.00.022.684—Investment Reports	0
(46.3) 81.00.064.186—Open meetings act	0
(46.5) 81.00.084.583—Real property subdivision mergers	0
(47) 81.70.135.776—Guardianship/conservatorship filings	6,362,000
(48) 81.75.112.377—Adult felony restitution	1,407,000
(49) 83.50.156.882—Firefighters' cancer presumption	525,000
(50) 83.50.999.001—Personal alarm devices	1,667,000
(51) 83.50.999.002—Structural and wildland firefighters' safety clothing and equipment	5,250,000
(52) 83.80.084.578—Filipino employee surveys	13,000
(53) 83.80.122.083—Personnel files	0
(54) 91.00.124.277—Senior citizens' property tax deferral	231,000
(55) 91.00.128.180—Involuntary lien notices	0

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(56)	91.00.105.183—Mobilehome property tax deferral	13,000
(57)	Test claims and reimbursement claims	1,912,000
(58)	Implementation of Chapter 1485, Statutes of 1988, Veto Message	22,784,000
(59)	Amount payable from the Restitution Fund (Item 8885-101-214)	−1,510,000

Provisions:

2. Except as provided in Provision 3 below, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item . Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
3. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein, except those as provided in Provision 2. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
4. Pursuant to Section 77203 of the Government Code, the funds provided in this item shall not be used to reimburse counties participating in the Trial Court Funding Program for any state-mandated program for the trial courts. These programs include, but are not limited to, any of the following:
   (a) Compensation of justice court judges (Ch. 1355, Stats. 1976).
   (b) Judicial arbitration (Ch. 743, Stats. 1978).

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	(c) San Francisco superior court judgeship (Ch. 1018, Stats. 1979).	
	(d) Marriage mediators (Ch. 48, Stats. 1980).	
	(e) Judges' per diem (Ch. 1580, Stats. 1984).	
	(f) Charging documents (Ch. 1111, Stats. 1981).	
	(g) Parent child counsel (Ch. 810, Stats. 1981).	
	5. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of $0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 1990–91 fiscal year:	
	(a) Lis Pendens (Ch. 889, Stats. 1981)	
	(b) Investigations of Guardianships (Ch. 1017, Stats. 1986)	
	(c) Juvenile Felony Arrests (Ch. 1088, (Ch. 1088, Stats. 1982)	
	(d) Victims' Statements (Ch. 1262, Stats. (1978)	
	(e) Dental examinations (Ch. 462, Stats. 1978)	
	(f) Marijuana Records (Ch. 952, Stats. 1976)	
	(g) Motorists' Assistance (Ch. 1203, Stats. 1985)	
	(h) Missing Persons' Reports (Ch. 51, Stats. 1984)	
	(i) Candidate Filing Fees (Ch. 914, Stats. 1974	
	(j) School Crossing Guards (Ch. 282, Stats. 1979)	
	(k) Airport Land Use (Ch. 1117, Stats. 1984)	
	(*l*) Pretreatment Facilities (Title 22, CCR, Section 64435 (f))	
	(m) Short-Doyle Audits (Ch. 1232, Stats. 1985)	
	(n) Detention of Minors (Title 15, CCR Sections 4500–4549)	
	(o) Employee Personnel Files (Ch. 1220, Stats. 1983)	
	(p) Involuntary Lien Notices (Ch. 1281, Stats, 1980)	
	(q) Investment Reports (Ch. 1225, Stats. 1984)	
	(r) Open Meetings Act (Ch. 641, Stats. 1986)	
	(s) Real Property Subdivision Mergers (Ch. 845, Stats. 1983)	
8885-101-214—For local assistance, Commission on State Mandates, for payment to Item 8885-101-001, payable from the Restitution Fund, State Controller		1,510,000

Item		Amount
8885-111-001—For local assistance, Commission on State Mandates, (Proposition 98), for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or of Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, State Controller		113,991,000
Schedule:		
(2) 19.00.079.980—Increased death benefits	604,000	
(3) 19.00.103.679—Increased benefits	2,630,000	
(4) 19.00.117.078—Increased pension	9,046,000	
(5) 19.00.139.874—Retirement—Unused sick leave	2,497,000	
(6) 61.00.049.800—Expulsion reports	410,000	
(7) 61.00.049.883—Teacher evaluators	630,000	
(8) 61.00.089.477—Proficiency in basic Skills	5,493,000	
(9) 61.00.096.175—Collective bargaining	31,830,000	
(9.5) 61.00.101.184—Juvenile court records	44,000	
(10) 61.00.117.677—Immunization records	1,905,000	
(11) 61.00.125.375—Expulsion of pupils—Transcripts	6,000	
(12) 61.00.134.780—Scoliosis screening	1,050,000	
(13) 63.00.103.679—STRS rate increase	34,815,000	
(14) 63.00.128.680—STRS cost-of-living adjustment	12,248,000	
(15) Test claims and reimbursement claims	2,288,000	
(16) Implementation of Chapter 1485, Statutes of 1988, Veto Message	8,495,000	
Provisions:		
1. Except as provided in Provisions 2, 3, and 4 below, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government		

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Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.

2. The funds appropriated in Schedules 13 and 14 are for transfer to the State Teachers' Retirement Fund for the State Teachers' Retirement System for reimbursement of costs incurred pursuant to Chapter 1036, Statutes of 1979 and Chapter 1286, Statutes of 1980.
3. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein, except those as provided in Provisions 1 and 2. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
4. Notwithstanding any other provision of law to the contrary, the funds appropriated in Schedules 2, 3, 4 and 5 are for transfer to the Public Employees Retirement System for reimbursement of costs incurred pursuant to Chapter 1398, Statutes of 1974, Chapter 1170, Statutes of 1978, Chapter 1036, or Statutes of 1979.

8885-112-001—For local assistance, Commission on State Mandates, (Proposition 98), for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or of Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, State Controller 15,143,000

Schedule:

(1) 68.70.000.184—Health fee 1,470,000
(2) Implementation of Chapter 1485, Statutes of 1988, Veto Message.... 13,673,000

Provisions:

1. Except as provided in Provision 2 below, allocations of funds provided in this item to the ap-

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propriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item . Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.		
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein, except those as provided in Provision 1. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.		
8910-001-001—For support of Office of Administrative Law		3,063,000
Schedule:		
(a) 10—Regulatory Oversight	2,139,000	
(b) 20—Legal Information Services	1,124,000	
(c) 30.01—Administration	1,029,000	
(d) 30.02—Distributed Administration	−1,029,000	
(e) Reimbursements	−200,000	
8915-001-001—For support of Department of Economic Opportunity, for payment to Item 8915-001-890		89,000
8915-001-890—For support of Department of Economic Opportunity, payable from the Federal Trust Fund.		7,699,000
Schedule:		
(a) 20—Energy Programs	6,394,000	
(b) 30—Special Programs	89,000	
(c) 40—Community Services	1,600,000	
(d) 50.01—Administration	3,009,000	
(e) 50.02—Distributed Administration	−3,009,000	
(f) Reimbursements	−295,000	

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(g) Amount payable from the General Fund (Item 8915-001-001)	−89,000	

Provisions:

1. On a federal fiscal year basis, the department shall make the following program allocations for the community services block grant, as a percentage of the total block grant:
   (a) Administration ..... 5 percent
   The department shall provide the State Controller with the dollar value of these allocation limits, as they relate to the appropriation in this item, at the beginning of the state fiscal year, and shall update this information whenever necessary to reflect federal revisions to the grant.
2. Notwithstanding Section 16367.5(b) of the Government Code, the office may expend up to 7.5 percent of the LIHEAP block grant for state administrative costs, adjusted for any allocations made by the Department of Finance for employee compensation and price increases. Any other proposed increase to LIHEAP state administrative costs for the 1990–91 state fiscal year, even if based on a higher, revised grant level and within the 5 percent allowed by Section 16367.5(b) of the Government Code, shall be approved pursuant to Section 28.00 of this act and in no event shall result in the office's state administrative costs for LIHEAP exceeding 7.5 percent of the total LIHEAP grant, PVEA funding inclusive.

8915-011-890—For support of Department of Economic Opportunity, to be transferred to the Department of Social Services, payable from the Federal Trust Fund	(6,340,000)
8915-101-853—For local assistance, Department of Economic Opportunity, for payment to Item 8915-101-890, payable from the Petroleum Violation Escrow Account	2,000,000
8915-101-890—For local assistance, Department of Economic Opportunity , for assistance to individuals and payments to service providers, payable from the Federal Trust Fund	86,936,000

Schedule:

(a) 20-Energy Programs	58,966,000
(b) 40-Community Services	29,970,000

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(c)	Amount payable from the Petroleum Violation Escrow Account (Item 8915-101-853)	−2,000,000

Provisions:

1. On a federal fiscal year basis, the department shall make the following program allocations for the community services block grant as a percentage of the total block grant:
   (a) Discretionary ..... 5 percent
   (b) Migrant and seasonal farm workers ..... 10 percent
   (c) Native American Indian programs ..... 3.9 percent
   (d) Community action agencies and rural community services ..... 76.1 percent

   All grantees under the community services block grant program shall be subject to standard state contracting procedures required under the program.
2. The department shall provide the State Controller with the dollar value of these allocation limits, as they relate to the appropriation in this item, at the beginning of the state fiscal year, and shall update this information whenever necessary to reflect federal revisions to the grant.
3. Funds collected by the department from energy contractors as a result of overpayments shall be used for local assistance for energy programs, and funds collected from community service block grant (CSBG) contractors as a result of overpayments shall be used for local assistance for CSBG programs in fiscal year 1990–91.
4. Funds scheduled in Item 8915-101-890 may be transferred to Item 8915-001-890 for the administration of the Low Income Home Energy Assistance Programs, subject to approval of the Department of Finance.
5. The $2,000,000 in Petroleum Violation Escrow Account funds that are included in Program 20 for the Weatherization-LIHEAP Program shall be expended for low income weatherization programs.

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8915-490—Reappropriation, Department of Economic Opportunity. Notwithstanding any other provision of law, the balance remaining of the appropriation provided in the following citation is hereby reappropriated for the purposes provided for in that appropriation, and shall be available for encumbrance and expenditure until June 30, 1991, as follows:		
(a) Schedules (a) and (b) of Item 8915-101-890 of the Budget Act of 1989, Energy and CSBG funds.		
8940-001-001—For support of Military Department		22,683,000
Schedule:		
(a) 10-Army National Guard.....	35,909,000	
(b) 20-Air National Guard	10,227,000	
(c) 30.01-Office of the Adjutant General	5,817,000	
(d) 30.02-Distributed Office of the Adjutant General	−5,817,000	
(e) 35-Military Support to Civil Authority.....	800,000	
(f) 40-Military Retirement	2,236,000	
(g) 50-California Cadet Corps.....	550,000	
(h) 55-State Military Reserve.....	301,000	
(i) 60-Farm and Home Loan	30,000	
(j) 71-California Innovative Military Projects and Career Training.....	2,222,000	
(k) Reimbursements.....	−2,384,000	
(*l*) Amount payable from the Armory Discretionary Improvement Fund (Item 8940-001-485)	−120,000	
(m) Amount payable from the Federal Trust Fund (Item 8940-001-890)	−27,088,000	
Provisions:		
1. No expenditures shall be made from this appropriation as a substitution for personnel, equipment, facilities, or other assistance, or for any portion thereof, which in the absence of the expenditure, or of this appropriation, would be available to the Adjutant General of the State Military Forces, the California National Guard, or the California National Guard Reserve from the federal government.		
2. The appropriation for Program 40 shall be for military retirements, in accordance with the		

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provisions of Sections 228 and 256 of the Military and Veterans Code.		
3. The Military Department shall revise the State Military Reserve's mobilization plan, premobilization mission, and related guidelines in conformity with federal law and to more accurately reflect the reserve's responsibility for providing necessary peacetime support and training services to the National Guard and assisting in preparation for natural disasters. The revised mobilization plan and premobilization mission, together with recommendations for necessary changes to existing law, shall be submitted to the Legislature by May 1, 1991.		
8940-001-485—For support of the Military Department, for payment to Item 8940-001-001		120,000
Provisions:		
1. No expenditures shall be made from this appropriation until sufficient revenues or income from armories have been deposited into the State Treasury to the credit of the General Fund pursuant to the Military and Veterans Code Section 431(c).		
8940-001-890—For support of Military Department, for payment to Item 8940-001-001, payable from the Federal Trust Fund		27,088,000
8940-301-036—For capital outlay, Military Department, payable from the Special Account for Capital Outlay		527,000
Schedule:		
(1) 70.10.010-Statewide: Project planning, working drawings, and supervision of construction financed from federal funds	234,000	
(4) 70.90.010-Statewide: Minor Projects	293,000	
Provisions:		
1. The Military Department shall not encumber funds appropriated in category (1) for the San Francisco, Stockton, and San Diego projects until the federal moratorium on the expenditure of funds for these projects is lifted.		
8940-301-890—For capital outlay, Military Department, payable from the Federal Trust Fund		562,000
Schedule:		
(2) 70.90.010-Statewide: Minor projects	562,000	

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8940-490-Reappropriation, Military Department. The balance of the appropriation provided in the following citation is reappropriated for the purposes (and subject to the limitations unless otherwise specified) provided for in the appropriation:

604-Armory Fund

(1) Item 8940-301-604 (1), Budget Act of 1989, 70.31.010-Lakeport-Armory—Preliminary plans and working drawings.

890-Federal Trust Fund

(1) Item 8940-301-890 (1), Budget Act of 1989, 70.31.010-Lakeport-Armory—Preliminary plans and working drawings.

Provisions:

1. The Military Department shall not encumber state or federal funds reappropriated for preliminary plans and working drawings for the Lakeport Armory project unless the federal moratorium is lifted for this project.

9100-101-001—For local assistance, Tax Relief 881,516,000

Schedule:

(a) 10-Senior Citizens' Property Tax Assistance	3,547,000
(b) 20-Senior Citizens' Property Tax Deferral Program	8,200,000
(c) 30-Senior Citizen Renters' Tax Assistance	17,750,000
(d) 50-Homeowners' Property Tax Relief	356,000,000
(e) 60-Subventions for Open Space	14,600,000
(f) 80-Renters' Tax Relief	481,126,000
(g) 90-Substandard Housing	293,000

Provisions:

1. Schedule (a) is for property tax assistance to homeowner claimants in accordance with the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), Division 2 of the Revenue and Taxation Code.

   Any unexpended balance in Schedule (a) may be used to make payments to senior citizen renter claimants under Schedule (c).

2. Schedule (b) is for property tax postponement and assistance to claimants in accordance with the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), Division 2 of the Revenue

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and Taxation Code. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.

3. Schedule (c) is for property tax assistance to renter claimants in accordance with the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501) of Division 2 of the Revenue and Taxation Code.

   Any unexpended balance in Schedule (c) may be used to make payments to senior citizen homeowner claimants under Schedule (a).

4. Schedule (d) is for reimbursement to local taxing authorities for revenue lost by reason of the homeowners' property tax exemption granted pursuant to subdivision (k) of Section 3 of Article XIII of the California Constitution. The appropriation made by this schedule shall be in lieu of the appropriation required pursuant to Section 25 of Article XIII of the California Constitution and the appropriation for the same purposes contained in Section 16100 or Section 16120 of the Government Code.

5. Schedule (e) is for providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423, 423.3, and 423.5 of the Revenue and Taxation Code, and in accordance with Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 or 16140 of the Government Code.

6. Schedule (f) is for transfer by the State Controller, as needed, to the Tax Relief and Refund Account, General Fund for the purpose of providing credits and refunds to renters as required by Section 17053.5 of the Revenue and Taxation Code.

7. Schedule (g) is for transfer by the State Controller to the Local Agency Code Enforcement and Rehabilitation Fund, for the purpose of providing funds to defray costs incurred in the enforcement of local housing code provisions and to fund housing rehabilitation programs for per-

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sons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, to be allocated to local agencies prorated on the basis of their share of disallowed deductions which resulted from the agencies' proceedings. This amount is in lieu of any statutory requirements.	
9210-101-001—For local assistance, Local Government Financing. For assistance to counties, to be allocated using the formulas and definitions specified in Sections 16265.2 and 16265.4(a) of the Government Code, for payment by the State Controller upon authorization by the Director of Finance....	15,000,000
Provisions:	
1. Community mental health costs used pursuant to Government Code Section 16265.2(b) shall be as reported by the State Department of Mental Health to the Department of Finance.	
2. Notwithstanding Government Code Section 16265.2(d)(5), permits and licenses shall not be used in determining "general purpose revenues".	
3. No allocation shall be made to any county or city and county from this item if the Director of Finance determines that the allocation would cause that county or city and county to have proceeds of taxes in excess of its appropriations limit pursuant to Article XIII B of the California Constitution. County budget data submitted to the State Controller, insofar as it displays the necessary appropriations limit and budget amounts, may be used by the Department of Finance in making this determination.	
9210-102-001—For local assistance, Local Government Financing.....	20,000,000
Provisions:	
1. The funds appropriated by this item are for allocation, in accordance with this provision, by the Director of Finance as grants or loans to counties or to cities and counties demonstrating difficulties in balancing their budgets for the 1990–91 fiscal year.	
(a) In order to receive funding from this item, a county or city and county shall clearly demonstrate all of the following in an application to the Director of Finance:	

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(1) That, in 1990–91, its net county share of costs for state-required programs has increased at a faster rate than its general purpose revenues. For the purposes of this determination, "net county costs" includes "county costs of eligible programs" and "county costs of justice programs," as defined in subdivisions (b) and (c) of Section 16265.2 of the Government Code, as well as net county costs for indigent health care, foster care, and general assistance. "General purpose revenues" shall be as defined in subdivision (d) of Section 16265.2 of the Government Code, exclusive of revenue from permits and licenses.

(2) That it has taken corrective action steps to balance its 1990–91 budget, including reducing expenditure levels and/or seeking revenue increases.

(3) That it is not reasonably able to balance its 1990–91 budget without additional state assistance.

(b) Upon receipt of an application for funding pursuant to subdivision (a), the Director of Finance shall notify the board of supervisors of the applying county or city and county of the preliminary decision on the application within 60 days. The final decision on a county's or city and county's application shall be made within 90 days of receipt of the application. If the preliminary decision is to deny a request for funding, the director shall identify the deficiency in the supporting material. If the final decision is to deny a request for funding, the notice shall specify the reasons for denial.

(c) No allocation shall be made to any county or city and county from this item if the Director of Finance determines that the allocation would cause that county or city and county to have proceeds of taxes in excess of its appropriations limit pursuant to Article XIII B of the California Constitution. County budget data submitted to the State Controller, insofar as it displays the neces-

Item	Amount
sary appropriations limit and budget amounts, may be used by the Director of Finance in making this determination.	
(d) The Director of Finance shall report to the Chairperson of the Joint Legislative Budget Committee, and to the chairpersons of the fiscal committee in each house, the amount and detail of any funds allocated to counties or cities and counties pursuant to this item, with the rationale therefor, not later than 30 days prior to the allocation of funds.	
9620-001-001—For payment of interest on General Fund loans, upon order of the Director of Finance, for any General Fund loan	1
Provisions:	
1. The Director of Finance, the State Controller, and the Treasurer shall satisfy any need of the General Fund for borrowed funds in a manner consistent with the Legislature's objective of obtaining the lowest possible rate of interest on this borrowing. The state fiscal officers shall use external borrowing rather than borrowing from internal state funds whenever it is economically advantageous to the General Fund.	
2. In the event that interest expenses related to internal borrowing exceed the amount appropriated in this item, there is hereby appropriated any amounts necessary to pay the interest. Moneys appropriated herein shall not be expended prior to 30 days after the Department of Finance notifies the Joint Legislative Budget Committee of the amount(s) necessary or not sooner than such lesser time as the Chairperson of the Joint Legislative Budget Committee may determine.	
9650-001-001—For support of Health Benefits for Annuitants. For the state's contribution for the cost of a health benefits plan and dental care premiums, for annuitants and other employees, in accordance with Sections 22825.7, 22828, 22829, and 22952 of the Government Code, and which is not chargeable to any other appropriation	236,668,000
Schedule:	
(a) Health benefit premiums..... 211,115,000	
(b) Dental care premiums..... 25,553,000	

Item		Amount
Provisions:		
1. The maximum transfer amounts specified in subdivision (b) of Section 6.50 of this act shall not apply to this item.		
9800-001-001—For augmentation for Employee Compensation		160,607,000
Schedule:		
(a) 10.01—Civil Service Employees —Represented	122,565,000	
(b) 10.02—Civil Service Employees —Nonrepresented	26,946,000	
(c) 10.03—Exempt/Excluded and Other Employees	3,170,000	
(d) 10.05—Judiciary	3,452,000	
(e) 10.06—Legislative Employees	4,474,000	
Provisions:		
1. The maximum transfer amounts specified in subdivision (b) of Section 6.50 of this act shall not apply to this item.		
2. The funds appropriated in Schedules (a) to (e), inclusive, are for compensation increases and increases in benefits related thereto, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, other state agencies, the Assembly Committee on Rules, the Senate Committee on Rules, the Joint Rules Committee, the Joint Legislative Audit Committee and the Joint Legislative Budget Committee in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, and each officer or employee of either house of the Legislature or joint committee thereof, to receive any such increases provided on or after July 1, 1990, by the Department of Personnel Administration, or any committee of the Legislature responsible for establishing salaries for officers and employees of the Legislature, as the case may be.		
3. Funds appropriated in Schedules (a) and (b) for employee compensation increases are to be allocated by executive order of the Department of Finance to the several state offices, in accor-		

Item	Amount
dance with approved memoranda of understanding or, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Personnel Administration in accordance with Section 19826 of the Government Code.	
9800-001-494—For augmentation for Employee Compensation, payable from other unallocated special funds	69,685,000
Schedule:	
(a) 10.01-Civil Service Employees —Represented 55,748,000	
(b) 10.02-Civil Service Employees —Nonrepresented 12,543,000	
(c) 10.03-Exempt/Excluded and Other Employees 1,394,000	
Provisions:	
1. The maximum transfer amounts specified in subdivision (b) of Section 6.50 of this act shall not apply to this item.	
2. The funds appropriated in Schedules (a) to (c), inclusive, are for compensation increases, increases in benefits related thereto, and other benefits, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to special funds, to receive any such increases provided on or after July 1, 1990, by the Department of Personnel Administration.	
3. Funds appropriated in Schedules (a) and (b) for employee compensation increases are to be allocated by executive order of the Department of Finance to the several state offices, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Personnel Administration in accordance with Section 19826 of the Government Code.	

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9800-001-988—For augmentation for Employee Compensation, payable from other unallocated nongovernmental cost funds			51,053,000
Schedule:			
(a) 10.01-Civil Service Employees —Represented		40,843,000	
(b) 10.02-Civil Service Employees —Nonrepresented		9,189,000	
(c) 10.03-Exempt/Excluded and Other Employees		1,021,000	
Provisions:			
1. The maximum transfer amounts specified in subdivision (b) of Section 6.50 of this act shall not apply to this item.			
2. The funds appropriated in Schedules (a) to (c), inclusive, are for compensation increases, increases in benefits related thereto, and other benefits, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to nongovernmental cost funds, to receive any such increases provided on or after July 1, 1990, by the Department of Personnel Administration.			
3. Funds appropriated in Schedules (a) and (b) for employee compensation increases are to be allocated by executive order of the Department of Finance to the several state offices, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Personnel Administration in accordance with Section 19826 of the Government Code.			
9800-011-001—For augmentation for Employee Compensation (Proposition 98)			1,400,000
Schedule:			
(a) 10.01—Civil Service Employees —Represented		1,400,000	

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Provisions:

1. The maximum transfer amounts specified in subdivision (b) of Section 6.50 of this act shall not apply to this item.
2. The funds appropriated in Schedule (a) are for compensation increases and increased in benefits related thereto, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, other state agencies, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, and each officer or employee of either house of the Legislature or joint committee thereof, to receive any such increases provided on or after July 1, 1990, by the Department of Personnel Administration, or any committee of the Legislature responsible for establishing salaries for officers and employees of the Legislature, as the case may be.
3. Funds appropriated in Schedule (a) for employee compensation increases are to be allocated by executive order of the Department of Finance to the several state offices, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Personnel Administration in accordance with Section 19826 of the Government Code.

9810-001-001—For payment of specified attorney's fee claims, settlements, compromises, and judgments arising from actions in state courts against the state, its officers, and officers and employees of state agencies, departments, boards, bureaus or commissions, supported from the General Fund. . 1,505,000

Provisions:

1. Expenditures from this item shall be made by the Controller, subject to the approval of the Department of Finance, and shall be charged to the fiscal year in which the disbursement is issued.

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2. Payments from this item shall only be made for state court actions filed pursuant to Section 1021.5 of the Code of Civil Procedure, the "private attorney general" doctrine, or the "substantial benefit" doctrine. Payments for state court actions shall not exceed the maximum hourly rate specified in Budget Act Item 9810-001-001 that was in effect on the date the judgment is entered or the date of the settlement agreement for attorney's fees. In no event shall the rate exceed $125 per hour.
3. No payment shall be made by the Controller from this item except in full and final satisfaction of the claim, settlement, compromise, or judgment for attorney's fees incurred in connection with a single action.
4. The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committees in each house when funds from this item have been exhausted, or when there are insufficient funds to satisfy a claim completely. This report shall list the known unsatisfied claims, and the amount of each of these claims.

9810-001-494—For payment of specified attorney's fee claims, settlements, compromises, and judgments arising from actions in state courts against the state, its officers, and officers and employees of state agencies, departments, boards, bureaus or commissions, supported from special funds, payable from the appropriate special fund such amounts as may be necessary. 150,000

Provisions:

1. Provisions 1, 2, 3, and 4 of Item 9810-001-001 are also applicable to this item.

9810-001-988—For payment of specified attorney's fee claims, settlements, compromises, and judgments arising from actions in state courts against the state, its officers, and officers and employees of state agencies, departments, boards, bureaus or commissions, supported from nongovernmental cost funds, payable from the appropriate nongovernmental cost fund such amounts as may be necessary. 320,000

Provisions:

1. Provisions 1, 2, 3, and 4 of Item 9810-001-001 are also applicable to this item.

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9840-001-001—For Reserve for Contingencies or Emergencies	1,500,000

Provisions:

1. The funds appropriated for reserve for contingencies or emergencies are to be expended only on written authorization of the Department of Finance for contingencies or emergencies.
2. Contingencies within the meaning of these funds are defined as proposed expenditures arising from unexpected conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which, in the judgment of the Director of Finance, constitute cases of actual necessity. Emergencies within the meaning of this item are hereby defined as expenditures incurred in response to conditions of disaster or extreme peril which threaten the health or safety of persons or property within the state.
3. Emergency and contingency expenditure authorizations and deficiency expenditure authorizations shall be limited to purposes which have been specifically approved by the Legislature in Budget Acts or other legislation, except that not more than $200,000 of each fund may be expended for purposes for which no such specific prior authorizations exist.
4. Authorizations for expenditures or deficiency expenditures arising from a contingency shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee, or no sooner than such lesser time as the committee, or its designee, may in each instance determine.
5. For expenditure authorizations or deficiency expenditure authorizations arising from an emergency, the Director of Finance shall file with the Joint Legislative Budget Committee within 10 days after approval, copies of all executive orders and allotment promises for emergency-related encumbrance or expenditure authorizations stating the reasons for, and the amount of, all such authorizations, except that any emergency augmentation from this item to any program in excess of 10 percent of the amount authorized for expenditure in the 1990–91 fiscal year for such program shall become effective no

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sooner than 30 days after notification in writing to the Joint Legislative Budget Committee or no sooner than such lesser time as the committee, or its designee, may in each instance determine, except that no such limit shall apply if the Director of Finance states in writing to the Chairperson of the Joint Legislative Budget Committee the necessity and urgency for the allocation which, in the judgment of the director, makes prior approval impractical. 6. For purposes for which the Governor previously vetoed funding, allocation of funds or authorization for deficiency expenditures shall not be made under the emergency provisions.	
9840-001-494—For Reserve for Contingencies or Emergencies, payable from unallocated special funds...	1,500,000
Provisions: 1. Provisions 1, 2, 3, 4, 5, and 6 for Item 9840-001-001 are also applicable to this item. 2. For the Reserve for Contingencies or Emergencies, payable from special funds, there are hereby appropriated from each special fund sums necessary to meet contingencies or emergencies, to be expended only on written authorization of the Director of Finance. No deficiencies shall be authorized by the Director of Finance in any appropriation of money from special funds made by this act for the 1990–91 fiscal year under the provisions of Section 11006 of the Government Code. Accounts, special accounts, and funds in the General Fund, which are treated as other governmental cost funds for accounting and budgeting purposes in accordance with Section 13303 of the Government Code, shall be considered to be special funds within the meaning of this item.	
9840-001-988—For Reserve for Contingencies or Emergencies, payable from unallocated nongovernmental cost funds	1,500,000
Provisions: 1. Provisions 1, 2, 3, 4, 5, and 6 for Item 9840-001-001 are also applicable to this item. 2. For Reserve for Contingencies or Emergencies, payable from nongovernmental cost funds, there is hereby appropriated from each nongovernmental cost fund which is subject to control or limited by this act sums necessary to meet	

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contingencies or emergencies, to be expended only on written authorization of the Director of Finance. No deficiencies shall be authorized by the Director of Finance in any appropriation of money from nongovernmental cost funds made by this act for the 1990–91 fiscal year under the provisions of Section 11006 of the Government Code.

9840-011-001—For Reserve for Contingencies or Emergencies (Loans) ..... (2,500,000)

Provisions:

1. This appropriation is for loans that may be made to state agencies which derive their support from the General Fund or from sources other than the General Fund, upon terms and conditions for repayment as may be prescribed by the Department of Finance. Any sum so loaned shall, if ordered by the Department of Finance, be transferred by the State Controller to the fund from which the support of the agency is derived.
2. No loan shall be made which requires repayment from a future legislative appropriation.
3. Authorizations for loans shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee, or no sooner than a lesser time which the committee, or its designee, may in each instance determine, except that this limit shall not apply if the Director of Finance states in writing to the Chair of the Joint Legislative Budget Committee the necessity and urgency for the loan which, in the judgment of the director, makes prior approval impractical.
4. Within 10 days after approval, the Director of Finance shall file with the Joint Legislative Budget Committee copies of all executive orders for loans stating the reasons for, and the amount of, all of these authorizations.

9840-490—Reappropriation, Reserve for Contingencies or Emergencies. As of June 30, 1990, the balances of the appropriations made by Items 9840-001-001, 9840-001-494 and 9840-001-988, Budget Act of 1989, shall revert to the unappropriated surplus of the General Fund, special funds, and nongovernmental cost funds, respectively.

Item	Amount
As of July 1, 1990, the amounts reverted as of June 30, 1990, for Items 9840-001-001, 9840-001-494 and 9840-001-988, Budget Act of 1989, are reappropriated and shall be available until June 30, 1991, and may be expended on written authorization of the Department of Finance issued on or before said date, for contingencies and emergencies, within the meaning of said items, occurring during the 1989–90 fiscal year.	
9860-301-036—For statewide capital outlay (10.10.010), payable from the Special Account for Capital Outlay.....	300,000
Provisions: 1. These funds are to be allocated by the Department of Finance to state agencies to develop design and cost information for new projects for which funds have not been appropriated previously, but which are anticipated to be included in the 1991–92 or 1992–93 Governor's Budget. The amount appropriated in this item shall not be construed as a commitment by the Legislature as to the amount of capital outlay funds it will appropriate in any future fiscal year.	
9860-301-791—For statewide capital outlay, (10.10.020), Matching Funds for Energy Grants, Federal Schools and Hospitals Grants Program, payable from the June 1990 Higher Education Capital Outlay Bond Fund.....	500,000
Provisions: 1. These funds are to be allocated by the Department of Finance to the University of California, the California State University, the California Community Colleges, and the California Maritime Academy based on notification of acceptance of grant funding under the Federal Schools and Hospitals Grants Program. 2. The Department of Finance, 30 days prior to allocation of funds appropriated under this item, shall report the proposed allocation to the Chairperson of the Joint Legislative Budget Committee and to the chairperson of the committee in each house which considers appropriations. 3. The funds appropriated in this item shall be available for allocation by the Department of Finance during the 1990–91 fiscal year.	

Item	Amount
9860-302-785—Notwithstanding any other provision of law, on June 30, 1990, the Controller shall transfer the amount of five hundred eight thousand dollars ($508,000) to the Capital Outlay Fund for Public Higher Education from the 1988 Higher Education Capital Outlay Bond Fund	508,000
9860-303-036—For transfer to the General Fund	(42,000,000)

Provisions:

1. Notwithstanding any other provision of law, on the effective date of this act the State Controller shall transfer the amount of forty-two million dollars ($42,000,000) to the General Fund from the Special Account for Capital Outlay.

9896-001-164—On or before June 30, 1991, the State Controller shall transfer any unappropriated balances in the Outer Continental Shelf Lands Act, Section 8(g) Revenue Fund to the General Fund, less any amount certified by the Director of Finance as necessary for allocation for employee compensation.

GENERAL SECTIONS
STATEWIDE

SEC. 3.00. Whenever herein an appropriation is made for support, it shall include salaries and all other proper expenses, including repairs and equipment, incurred in connection with the institution, department, board, bureau, commission, officer, employee, or other agency for which such for which the appropriation is made.

Each item appropriating funds for salaries and wages includes the additional funds necessary to continue the payment of the amount of salaries in effect on June 30, 1990, for the state officers whose salaries are specified by statute.

Whenever herein an appropriation is made for capital outlay, it shall include acquisition of land or other real property, major construction, improvements, equipment, designs, working plans, specifications, repairs, and equipment necessary in connection with a construction or improvement project.

Whenever herein any item of appropriation contains provisions for acquisition of land or other real property, it shall include all necessary expenses in connection with the acquisition of the property.

Whenever herein an appropriation is made in accordance with a schedule set forth after the appropriation, the expenditures from that item for each category, program, or project included in the schedule shall be limited to the amount specified for that category, program, or project, except as otherwise provided in this act. Each

schedule is a restriction or limitation upon the expenditure of the respective appropriation made by this act, does not itself appropriate any money, and is not itself an item of appropriation.

As used in this act in reference to the schedules "category", "program", or "project" means a class of expenditure such as, but not limited to:

(a) "Personal services," which shall include all expenditures for payment of officers and employees of the state, including: salaries and wages, workers' compensation, compensation paid to employees on approved leave of absence on account of sickness, unemployment compensation benefits, insurance premiums for workers' compensation coverage, industrial disability leave and payments, nonindustrial disability benefits and payments, the state's contributions to the Public Employees' Retirement Fund, the Teachers' Retirement Fund, the University of California Retirement Fund to provide for that portion of retirement costs to be provided for Hastings College of the Law in Item 6600-001-001 of this Budget Act, the Old Age and Survivors' Insurance Revolving Fund, the Public Employees' Contingency Reserve Fund, and the state's cost of health benefits plans; but do not include compensation of independent contractors rendering personal services to the state under contract.

(b) "Operating expenses and equipment," which shall include all expenditures for purchase of materials, supplies, equipment, services (other than services of state officers and employees), departmental services (services provided by other organizational units within a department, including indirect distributed costs), and all other proper expenses.

(c) "Preliminary plans" are defined as a site plan, architectural floor plans, elevations, outline specifications, and a cost estimate. For each utility, site development, conversion and remodeling project, the drawings shall be sufficiently descriptive to accurately convey the location, scope, cost, and the nature of the improvement being proposed.

(d) "Working drawings" are defined as a complete set of plans and specifications showing and describing all phases of a project, architectural, structural, mechanical, electrical, civil engineering, and landscaping systems to the degree necessary for the purposes of accurate bidding by contractors and for the use of artisans in constructing the project. All necessary professional fees and administrative service costs are included in the preparation of these drawings.

(e) "Construction," when used in connection with a capital outlay project, shall include all such related things as fixtures, installed equipment, auxiliary facilities, contingencies, project construction, management, administration and associated costs.

(f) "Minor projects" include planning, working drawings, construction, improvements, and equipment projects not specifically set forth in the schedule.

(g) "Programs" include all expenditures, regardless of category, required to carry out the objectives of the named activity.

For the purpose of further interpreting the meaning of the words, terms and phrases, and uniform codes used in the schedules, reference is hereby made to those documents entitled, "State of California Governor's Budget for 1990–91," submitted by the Governor to the Legislature at the 1990 portion of the 1990–91 Regular Session, the uniform accounting system prescribed by the Department of Finance under the provisions of Section 13300 et seq. of the Government Code, the Uniform Codes Manual, and the appropriate portions thereof. The Department of Finance shall establish interpretations necessary to carry out the provisions of this section and shall furnish the same to the State Controller and to every state agency to which appropriations are made under this act.

SEC. 3.50. Whenever herein an appropriation is made for support or other expenses for an institution, department, board, bureau, commission, officer, employee, or other agency, there shall be charged to the appropriation from which salaries and wages are paid: workers' compensation, compensation paid to employees on approved leave of absence on account of sickness, unemployment compensation benefits, industrial disability leave and payments, nonindustrial disability benefits and payments, the state's contribution to the Public Employees' Retirement Fund as provided by Sections 20751 and 20752 of the Government Code, the state's contribution to the Teachers' Retirement Fund as provided by Sections 23000 and 23400 of the Education Code, the state's contribution to the Old Age and Survivors' Insurance Revolving Fund as provided by Sections 20782 and 20783 of the Government Code, the state's contribution to the Old Age and Survivors' Insurance Revolving Fund for payment of hospital insurance taxes imposed by the Internal Revenue Code, the state's contribution to the Public Employees' Contingency Reserve Fund, the state's contribution for the cost of health benefits plans as provided by Sections 22828 and 22829 of the Government Code, and the state's contribution for costs of other employee benefits established by any state agency legally authorized to negotiate and set salary and benefit levels.

As of the effective date of this act, the state's contributions as provided by Sections 22828 and 22829 of the Government Code and for costs of any other employee benefits established by any state agency legally authorized to negotiate and set salary and benefit levels for any month shall be charged to the same appropriations used for payment of salaries and wages from which the employee premium contributions for such month are deducted.

The appropriations made by Sections 20751, 20752, 20782, 20783, 22828, and 22829 of the Government Code and by Sections 23000 and 23400 of the Education Code, shall continue to be available for expenditure, and shall be charged for any expenditure which is not

chargeable to an appropriation for support or other expenses as provided in this section. This transfer may be chargeable to such appropriation for a previous fiscal year if there are no funds available from that fiscal year.

The State Controller may transfer to the State Payroll Revolving Fund the contributions required by Sections 20751, 20752, 20782, 20783, 22828, and 22829 of the Government Code, contributions required for payment of the hospital insurance tax, and upon certification by the Board of Administration of the Public Employees' Retirement System as required by Section 20754 of the Government Code, may transfer from the State Payroll Revolving Fund to the Public Employees' Retirement Fund and the Old Age and Survivors' Insurance Revolving Fund the amounts of contributions.

SEC. 3.60. (a) Notwithstanding any other provisions of law, the employers' retirement contributions for the 1990–91 fiscal year which are chargeable to an appropriation made in this act, with respect to each state officer and employee who is a member of the Public Employees' Retirement System and who is in such employment or office, including university members as provided by Section 20751 of the Government Code, shall be the percentage of salaries and wages by state member category as shown:

Miscellaneous, First Tier	12.878%
Miscellaneous, Second Tier	6.975%
State Industrial	16.720%
State Safety	17.916%
Highway Patrol	18.090%
Peace Officer/Firefighter	15.702%

(b) Notwithstanding any other provisions of law, the Department of Finance shall require retirement contributions computed pursuant to subdivision (a) to be offset by the State Controller with surplus funds in the Public Employees' Retirement Fund, employer surplus asset accounts.

To the extent that a surplus exists in the Highway patrol category after offsetting the state employer contribution, the employee contribution be offset by these remaining surplus funds contingent upon explicit provisions within the collective bargaining Memorandum of Understanding, which expires in 1990–91.

(c) Notwithstanding any other provisions of law, the Department of Finance shall reduce amounts in any appropriation item, or in any category thereof, in this act which are determined to be in excess as a result of a reduction to the employers' contribution for 1990–91 fiscal year retirement benefits, as adopted in subdivision (a) and as further modified in subdivision (b).

The Department of Finance shall certify to the State Controller the amount of the reductions in this act by item and program or category. In addition, for purposes of calculating the "appropriations subject to limitation" as defined in Section 8 of Article XIII B of the

California Constitution, the appropriations in this act shall be deemed to be the amounts remaining after the reductions required by this subdivision are made.

It is the intent of the Legislature that the board reduce the employer contribution to the extent appropriate to reflect actuarial experience which is better than the board adopted actuarial assumptions.

SEC. 3.75. Notwithstanding any other provision of law, the Department of Finance may reduce amounts in any appropriation item, or in any category thereof, which are determined to be in excess of the amount required to fund Centrex service costs, as a result of savings achieved through the award of a contract to competitively bid the state's lines outside the existing Automatic Telecommunications Switching System (ATSS). The Department of General Services shall provide the amounts of these savings by department, board, bureau, commission, or agency, based on telephone billing data, no later than November 1, 1990.

SEC. 3.80. Notwithstanding any other provision of this act, the Director of Finance may reduce each appropriation for support from the General Fund in Section 2 of this act, with the exception of the appropriations made by Items 0110-001-001, 0120-011-001, 0130-021-001, 0155-001-001, 0160-001-001, 0500-001-001 of Section 2 of this act, by an amount not to exceed 3% of each appropriation.

The Department of Finance shall certify to the State Controller the amount of such reductions in this act by item and category, and the State Controller shall revert such sums to the unappropriated surplus of the General Fund.

SEC. 4.00. Notwithstanding any other provisions of law, the employer's contributions for the 1990–91 fiscal year, which are chargeable to an appropriation made in this act, with respect to each state officer and employee or an annuitant who was in such employment or office, including an academic position with a California State University or College, or is a survivor of such person, or is an annuitant, shall be $157 for basic and related major medical plans with respect to employees or annuitants enrolled for self alone, or $292 for an employee or annuitant so enrolled for self and one family member, or $367 for an employee or annuitant so enrolled for self and two or more family members, or, if less, the amount necessary to pay the cost of such person's enrollment, including the enrollment of such person's family members, in a health benefits plan or plans.

SEC. 4.20. (a) Notwithstanding any other provisions of law, the employer's contributions to the Public Employees' Contingency Reserve Fund, as required by Section 22826 of the Government Code, shall be 0.5 percent of the gross health insurance premiums paid by the employer and employee for administrative expenses.

(b) The Department of Finance, upon request of the Board of Administration of the Public Employees' Retirement System, may authorize an augmentation to the administrative expense funding au-

thorized under subdivision (a) from the unappropriated Contingency Reserve Fund balance for unanticipated emergency expenditures in the Health Benefit Program subject to legislative notification pursuant to the provisions of Sec. 6.50 of this Act.

SEC. 5.00. (a) No funds appropriated by this act or appropriated under any other statute may be used to pay attorney's fees in actions arising in state courts unless payment of the fees is:

(1) Specifically authorized and set forth in an item or section of this act;

(2) Expressly authorized by a statutory provision other than Section 1021.5 of the Code of Civil Procedure; or

(3) Awarded by a federal court pursuant to federal law expressly authorizing attorney's fees.

(b) This section shall not be construed as making an appropriation of funds for the payment of court-awarded attorney's fees.

SEC. 5.50. The Director of General Services shall report quarterly to the Chairperson of the Joint Legislative Budget Committee approval of any contracts and interagency agreements for consultant or personal services.

SEC. 6.00. No more than $20,000 of the funds appropriated for support purposes under Section 2.00 of this act may be encumbered for preliminary plans, working drawings, or construction of any project for the alteration of a state building unless the Director of Finance determines that the proposed alteration is critical and that it is necessary to proceed using funds appropriated for support purposes. The maximum cost of any such project shall not exceed $250,000, and any approved critical project costing more than $20,000, but not greater than $250,000, shall be reported to the Chairperson of the Joint Legislative Budget Committee or his or her designee, not less than 30 days prior to requesting bids for the project. The report shall detail those factors which make the project so critical that it must proceed using support funds.

SEC. 6.50. (a) The Department of Finance may, pursuant to a request by the officer, department, division, bureau, board, commission, or other agency to which an appropriation is made herein, authorize the augmentation of the amount available for expenditure for a category, program, or project designated in any schedule set forth for the appropriation by transfer from any of the other designated categories, programs, or projects within the same schedule. The Department of Finance shall furnish the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee with a report on all authorizations given pursuant to this section during the preceding quarter.

(b) Augmentations of amounts available for expenditure for a category, program, or project designated in any line of any schedule for personal services or operating expenses and equipment set forth for

that appropriation by transfer from any of the other designated categories, programs, or projects within the same schedule shall not exceed, during any fiscal year:

(1) 20 percent of the amount so scheduled on that line for those support appropriations made herein which are $2,000,000 or less.

(2) $400,000 of the amount so scheduled on that line for those support appropriations made herein which are more than $2,000,000 but equal to or less than $4,000,000.

(3) 10 percent of the amount so scheduled on that line for those support appropriations made herein which are more than $4,000,000.

(4) The Department of Transportation Highway Program shall be limited to a schedule change of 10 percent.

(c) Any transfer in excess of $100,000, and any transfer, regardless of the amount, for the purpose of funding a task force or advisory council created by executive order of the Governor, may be authorized pursuant to this section not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

(d) Any transfer in excess of the limitations provided in subdivision (b) may be authorized only upon approval of the Chairperson of the Joint Legislative Budget Committee.

SEC. 7.50. Whenever an expenditure is authorized from the reserve for contingencies or emergencies, from price increase funds, from employee benefits or special salary adjustments funds, from total equivalent compensation funds, from the salary increase funds, or from a fund pursuant to Section 11006 of the Government Code, in addition to an appropriation made by this act, such authorized expenditures may, for accounting purposes, be deemed to be an augmentation and increase of the appropriation made by this act.

SEC. 8.50. (a) In making appropriations to state agencies which are eligible for federal programs, it is the intent and understanding of the Legislature that applications made by the agencies for federal funds under federal programs shall be for the maximum amount allowable under federal law. Therefore, any amounts received from the federal government are hereby appropriated from federal funds for expenditure or for transfer to, and disbursement from, the State Treasury Fund established for the purpose of receiving the federal assistance subject to any provisions of this act which are applicable to the expenditure of these funds, including Section 28.00.

(b) However, if federal funds for block grant programs assumed by the state are reduced by more than 5 percent of the amount appropriated in this act, the Director of Finance shall notify the chairperson of the committee in each house which considers appropriations, and the Chairperson of the Joint Legislative Budget

Committee, in writing within 30 days after notification by the federal government that federal funds have been reduced, and shall include a plan of reduced expenditures for the federal block grant programs affected. The plan shall be operational on an interim basis for up to 45 days pending legislative review, after which time the plan shall become permanent.

(c) In addition, the Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the fiscal committees, within 30 days after notification from the federal government, in the event that federal funds for any item receiving federal funds are reduced by more than 5 percent of the amount appropriated in this act. Notification shall include an estimate of (a) the amount of federal funds available or anticipated, (b) state fiscal year 1990–91 expenditures for each program affected by the reduction, and (c) the effect of reduced funding on service levels authorized by this act.

SEC. 8.51. Each state agency shall, by certification to the State Controller, identify the account within the Federal Trust Fund when charges are made against any appropriation made herein from the Federal Trust Fund.

SEC. 8.60. The State Controller may, with the concurrence of the Director of Finance and the Chairperson of the Joint Legislative Budget Committee, bill affected state departments for activities required by State Administrative Manual Section 20050—Administration of Federal Pass-through Funds.

No billing may be sent to affected departments sooner than 30 days after the Chairperson of the Joint Legislative Budget Committee has been notified by the Director of Finance that he or she concurs with the amounts specified in the billings.

SEC. 9.10. The Supplemental Report of the Committee on Conference on the Budget Bill, which contains agreed language on statements of intent or requests for studies, and which was submitted to the Senate and Assembly concurrently with consideration of the Budget Bill for the 1990–91 fiscal year, reflects the intent of the Legislature in enacting the Budget Act of 1990 and should be interpreted as such by the various agencies of state government affected by the statements contained in the report. The Legislative Analyst shall transmit copies of the report to all agencies to which statements of intent and requests for studies are directed in order that each may be fully informed of the intent of the Legislature.

SEC. 9.20. Notwithstanding Section 15860 of the Government Code, the amount of funds expended for administrative costs associated with any appropriation contained herein for acquisition of property pursuant to the Property Acquisition Law shall be limited to the amount specified for such costs in the Supplemental Report of the 1990 Budget Act. Amounts for administrative costs may be augmented by no more than 5 percent by the State Public Works Board.

Notwithstanding the foregoing, any amounts needed for administrative costs associated with acquisition through the condemnation authority of the State Public Works Board shall be provided through augmentation of the affected appropriations as authorized by existing law.

SEC. 9.50. For minor capital outlay projects for which, pursuant to Section 10108 of the Public Contract Code, the services of the Department of General Services are not required and a state agency or department is authorized to carry out its own project, the amount of the unencumbered balance of the project shall be determined in accordance with Section 14959 of the Government Code. Upon receipt of bids for the project, an estimate of the amount necessary for the completion of the project, including supervision, engineering, and other items, if any, shall be deemed a valid encumbrance and shall be included with any other valid encumbrance in determining the amount of an unencumbered balance.

SEC. 11.50. (a) Notwithstanding any other provision of law, no allocations shall be made pursuant to subdivision (b), (c), (d), (e), (f), or (g) of Section 6217 of the Public Resources Code for the 1990–91 fiscal year.

(b) Notwithstanding any other provision of law, the allocation to the California Housing Trust Fund made pursuant to subdivision (h) of Section 6217 of the Public Resources Code shall be in the amount of three million dollars ($3,000,000) for the 1990–91 fiscal year.

(c) Notwithstanding any other provision of law, no transfer to the Roberti-Z'Berg-Harris Open-Space and Recreation Program Account from the Special Account for Capital Outlay in the General Fund shall be made pursuant to Section 5624.5 of the Public Resources Code for the 1990–91 fiscal year.

(d) Notwithstanding any other provision of law, no allocation to the Fisheries Restoration Account in the Fish and Game Preservation Fund shall be made pursuant to subdivision (a) of Section 6217.1 of the Public Resources Code for the 1990–91 fiscal year.

(e) Notwithstanding any other provision of law, the amount of fifty-three million four hundred sixty-one thousand dollars ($53,461,000) shall be allocated to the General Fund for the 1990–91 fiscal year from tidelands oil revenues otherwise subject to Section 6217 of the Public Resources Code.

(f) For the 1990–91 fiscal year, the State Public Works Board may use the Special Fund for Economic Uncertainties to augment capital outlay appropriations made from the Special Account for Capital Outlay. Any augmentations pursuant to this section shall be made in accordance with the requirements of Section 13332.11 of the Government Code.

SEC. 11.51. The Director of Finance may allocate funds among the Energy and Resources Fund; the Energy Account, Energy and Resources Fund; and the Resources Account, Energy and Resources Fund.

SEC. 11.55. The State Controller may transfer funds between the Outer Continental Shelf Land Act Section 8(g) Revenue Fund and that portion of the Federal Trust Fund which was utilized from the 1985–86 fiscal year to the 1988–89 fiscal year, inclusive, for the receipt of moneys pursuant to a settlement regarding Section 8(g) of the Outer Continental Shelf Land Act.

SEC. 11.60. Notwithstanding Article 12 (commencing with Section 16429.30) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, Section 25115 of the Revenue and Taxation Code, or any other provision of law, all moneys deposited in the California Unitary Fund during the 1988–89, 1989–90 and 1990–91 fiscal years and all expenditures, disbursements, and transfers from the California Unitary Fund shall be budgeted and accounted for at the fund level. No expenditure, disbursement, or transfer shall be made from the California Unitary Fund except in accordance with Chapter 1558 of the Statutes of 1988 or this act.

SEC. 11.61. (a) Subject to the provisions of Section 25111 of, and Chapter 22 (commencing with Section 26071) of Part 11 of Division 2 of, the Revenue and Taxation Code, in the event of a final appellate level determination by a California or federal court that the application of the worldwide combined report method or the requirement that amounts be paid pursuant to Section 25115 of the Revenue and Taxation Code is unconstitutional, amounts paid pursuant to Section 25115 of the Revenue and TaxationCode for income years beginning on or after January 1, 1988, shall, to the extent ordered by the court or as otherwise provided in Article 1.5 (commencing with Section 25110) of Chapter 17 of Part 11 of Division 2 of the Revenue and Taxation Code and regulations thereunder as of the effective date of this act, be refunded, with interest as provided in Section 26080 of the Revenue and Taxation Code, from funds in the California Unitary Fund, which is hereby appropriated to the Franchise Tax Board for that purpose.

(b) In the event that there are insufficient funds in the California Unitary Fund for those refunds, refunds of amounts paid pursuant to Section 25115 of the Revenue and Taxation Code shall be paid from the General Fund. There is hereby appropriated from the General Fund to the Franchise Tax Board an amount, not to exceed ten million seven hundred thousand dollars ($10,700,000), to pay the balance of those refunds.

SEC. 12.00. For the purposes of Article XIII B of the California Constitution, there is hereby established a state "appropriations limit" of thirty-two billion two hundred three million dollars ($32,203,000,000) for the 1990–91 fiscal year. Any judicial action or proceeding to attack, review, set aside, void, or annul the "appropriations limit" for the 1990–91 fiscal year shall be commenced within 45 days of the effective date of this act.

SEC. 12.30. (a) There is hereby appropriated from the General Fund for transfer to the Special Fund for Economic Uncertainties by the Controller, upon order of the Director of Finance, an amount necessary to bring this special fund up to the amount stated in the Final Change Book for the 1990–91 fiscal year ending balance in the Special Fund for Economic Uncertainties, as of July 1, 1990. The amount so transferred shall be reduced by the amount of excess revenues subject to Section 2 of Article XIII B of the California Constitution, as determined by the Director of Finance.

(b) For the purpose of calculating the "appropriations subject to limitation" as defined in Section 8 of Article XIII B of the California Constitution, the appropriations shall be deemed limited to the lesser of the following amounts:

(1) The amounts stated in this act or

(2) The amount encumbered or expended as of June 30, 1990, against each appropriation. The amount of the appropriations expended or encumbered shall be determined on the basis of the State of California Preliminary Annual Report—Accrual Basis. Any subsequent adjustments shall be determined jointly by the Controller and the Director of Finance.

(c) Of the amount appropriated to the Special Fund for Economic Uncertainties, the Director of Finance may allocate a sufficient amount, not to exceed $10,000,000, to the Department of Forestry and Fire Protection for emergency fire suppression for the 1990–91 fiscal year.

(d) Of the amount appropriated to the Special Fund for Economic Uncertainties, the Director of Finance may allocate a sufficient amount, not to exceed $20,000,000, for emergency or disaster response operation and other related costs incurred by state or local agencies for the 1990–91 fiscal year. These allocations would be made as a result of a state of emergency proclamation by the Governor.

SEC. 12.31. (Proposition 98). (a) There is hereby appropriated from the General Fund a contingency expenditure of one hundred million dollars ($100,000,000) reserved for subsequent appropriation by the Legislature for deficiencies and other educational purposes in program areas which are funded under the provisions of Proposition 98. Funds appropriated by this section shall not be further appropriated prior to June 15, 1991, unless appropriated by a statute chaptered on or before July 15, 1990. No amount shall be appropriated from this section that would cause the state to exceed the minimum funding level required by Proposition 98, the Classroom Instructional Improvement and Accountability Act.

(b) The funds appropriated by this section shall be available in accordance with, and in the order of, the following priorities:

(1) For purposes of deficiency allocation for kindergarten and grades 1 to 12, inclusive, pursuant to Section 27.00 of this act.

(1.5) Up to two million dollars ($2,000,000) for the purposes of vocational education incentive funding pursuant to Senate Bill 1947 of

the 1989–90 Regular Session. This funding shall only be available if Senate Bill 1947 is chaptered and becomes operative on or before January 1, 1991.

(2) Up to one hundred ten million dollars ($110,000,000), including amounts appropriated in other items of this act, for purposes of the program to reduce class size pursuant to Senate Bill 666 of the 1989–90 Regular Session.

(3) Up to thirty-eight million one hundred twelve thousand dollars ($38,112,000) for the purpose of funding growth in enrollment in special education for the 1991–92 fiscal year calculated pursuant to Section 56728.6 for the Education Code, in augmentation of the amount appropriated for that growth by Item 6110-161-001 of the Budget Act of 1991.

(4) In support of other legislative measures, where the funding of those measures would qualify under the definition set forth in subdivision (a) of Section 41202 of the Education Code.

SEC. 12.32. (a) All appropriation items identified as "(Proposition 98)" are for the purposes of meeting the funding guarantee for education programs pursuant to Section 8 of Article XVI of the California Constitution.

(b) It is the intent of the Legislature that appropriations which are subject to Article XVI of the California Constitution be designated with the wording "Proposition 98." In the event these appropriations are not so designated, they may be designated as such by the Department of Finance where that designation is consistent with legislative intent.

(c) Pursuant to the Proposition 98 funding requirements established in Chapter 2 (commencing with Section 41200) of Part 24 of the Education Code, the total appropriations for Proposition 98 for fiscal year 1990–91 are seventeen billion two hundred eighty-three million four hundred five thousand dollars ($17,283,405,000), or 42.395 percent of total General Fund revenues and transfers subject to the state appropriations limit. General Fund revenues set aside for school districts and other state agencies which provide direct elementary and secondary level education, as defined in Section 41302.5 of the Education Code, are fifteen billion five hundred sixty-three million forty-nine thousand dollars ($15,563,049,000), or 38.175 percent of total General Fund revenues and transfers subject to the state appropriations limit. General Fund revenues set aside for the California Community Colleges, pursuant to the Proposition 98 funding requirements, are one billion seven hundred twenty million three hundred fifty-six thousand dollars ($1,720,356,000), or 4.220 percent of total General Fund revenues and transfers subject to the state appropriations limit.

SEC. 13.00. (a) Notwithstanding any other provisions of law, expenditures under Item 0160-001-001 of this act or any appropriation in augmentation of that item shall be exempt from the provisions of

Chapter 7 (commencing with Section 11700) of Part 1 of, Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of, and Division 3 of Title 2 of, the Government Code, Division 2 (commencing with Section 1100) of the Public Contract Code, subdivision (a) of Section 713 of Title 2 of the California Code of Regulations, and Section 5.50 of this act, and may be expended as set forth in the Governor's Budget, or for other purposes, including expenditures for the number of positions in various classifications authorized by the Joint Rules Committee .

(b) Notwithstanding any other provisions of law, the unencumbered balances as of June 30, 1990, of the appropriations made by Items 0160-001-001 and 8840-001-001 of the Budget Act of 1989 are reappropriated and shall be available for encumbrance until June 30, 1991, for the same programs and purposes for which appropriations for these items have been made by this act.

RESOURCES

SEC. 18.10. (a) No expenditure from an appropriation made by this act to the Department of Parks and Recreation shall be made to modify, execute, or approve an operating lease or an operating agreement with any local entity or any nonprofit corporation, unless either of the following has occurred:

(1) The Legislature has reviewed the lease or agreement as part of the support or capital outlay budget of the Department of Parks and Recreation and expressed approval of the expenditure from an appropriation made by this act through the supplemental language report.

(2) The State Public Works Board has approved the lease, or has approved an agreement not sooner than 20 days after the Director of Finance has provided written notification to the Chairperson of the Joint Legislative Budget Committee, the Chairperson of the Assembly Ways and Means Committee, and the Chairperson of the Senate Budget and Fiscal Review Committee, and upon a determination by the board that the proposal could not have reasonably been presented to the Legislature through the annual budget process.

(b) The Department of Parks and Recreation shall include with the proposed lease or agreement sufficient documentation to enable the Legislature, or the board, as the case may be, to evaluate fully the estimated operating costs and revenues and all terms upon which the lease or agreement is proposed to be entered into. Specifically, the documentation shall identify: (1) any anticipated costs to the state for operation or development under the agreement and the anticipated state share of total operation and development costs; and (2) the anticipated annual revenues, net of operation costs, for the unit and the state's share of these revenues.

(c) Agreements shall be exempt from subdivisions (a) and (b) when all of the following conditions exist:

(1) The agreement involves operation of only a portion of a unit of the State Park System.

(2) The term of the agreement is for a period of 20 years or less.

(3) The agreement's impact to the unit, including concessions revenue, will not exceed two hundred fifty thousand dollars ($250,000) in annual revenue.

(4) The agreement involves no significant change in state operational funding or staffing levels, and does not include present or future state expenditures for development of the unit.

(d) Amendments to existing agreements shall be exempted from subdivisions (a) and (b) when all of the following conditions exist:

(1) The amendment involves operation of only a portion of a unit of the State Park System.

(2) The amendment is to an existing agreement with a term which may exceed 20 years because of prior legislative authority.

(3) The amendment's impact to the unit will not exceed two hundred fifty thousand dollars ($250,000) in annual revenue.

(4) The amendment involves no significant change in state operational funding or staffing levels, and does not include present or future state expenditures for development of the unit.

SEC. 19.00. The loan authority provided pursuant to Sections 7 and 8 of Chapter 1442 of the Statutes of 1989 shall be available only until June 30, 1990. Funds loaned pursuant to this authority shall be repaid on or before June 30, 1991.

HEALTH AND WELFARE

SEC. 22.00. (a) The sum of eleven million one hundred fifty thousand dollars ($11,150,000) is hereby appropriated from the General Fund for transfer by the Controller, upon order of the Director of Finance, to the Department of Social Services, the State Department of Education, the California Community Colleges, or other appropriate agencies that have demonstrated that additional resources are necessary to implement the Greater Avenues for Independence (GAIN) program pursuant to Chapter 1025 of the Statutes of 1985. Allocations made pursuant to this section shall be subject to Section 28.00 of this act.

(b) In order to receive funding under this section: (1) school districts operating adult education programs shall certify to the Superintendent of Public Instruction that they have fully utilized their average daily attendance authorized for funding during the 1989–90 fiscal year, under Section 52616 of the Education Code, as well as any funds reallocated by the superintendent pursuant to subdivision (d) of Section 52616 of the Education Code; (2) school districts and county offices of education operating regional occupational programs shall certify to the Superintendent of Public Instruction that they have fully utilized allocations made pursuant to Item 6110-102-001; and (3) community college districts receiving funds under this

section shall certify to the Chancellor of the California Community Colleges that they have fully utilized allocations made pursuant to Section 84710 of the Education Code. Funds shall be allocated to community college districts from this section prior to allocation of any funds being transferred pursuant to Section 84707 of the Education Code.

(c) The funds appropriated by this section shall be allocated in accordance with the following schedule:

(1) Community colleges	$5,000,000
(2) Department of Education	3,250,000
(3) Other appropriate agencies	2,900,000

The Director of Finance may transfer funds among the categories in the schedule above.

(d) Any funding allocated to the Chancellor's office of the California Community Colleges, or the Superintendent of Public Instruction, for apportionment to community college districts or local education agencies for additional average daily attendance (ADA) may, notwithstanding any other provision of law, be apportioned on an advance basis to community college districts or local education agencies, based on expected units of ADA if a prior application for the additional ADA funding has been approved by the chancellor or the Superintendent of Public Instruction. The chancellor or superintendent, shall, at the time of the annual apportionment, reduce funding by the corresponding amount to any district or local education agency receiving funds affected by this provision and which fails to generate certified levels of ADA.

(e) Of the funds allocated to the State Department of Education pursuant to this section, $250,000 shall be available for transfer for activities of the Statewide Resource and Referral Network in conducting a survey, the results of which shall be provided to the state departments of Education and Social Services.

(f) Item 5180-158-001 shall be the sole source of funding for GAIN services in Los Angeles County. Funds allocated in each category of Item 5180-158-001 shall be the sole source of funding for the purposes cited in the respective category.

SEC. 23.50. (a) (1) The sum of five hundred sixty-two million three hundred seventy-six thousand dollars ($562,376,000) is hereby appropriated upon receipt from California's allocation of Federal State Legalization Impact Assistance Grant (SLIAG) funds which were appropriated by Congress in Section 204 of the Federal Immigration Reform and Control Act (IRCA) of 1986. These funds shall be transferred by the Controller, upon order of the Director of Finance, to the appropriate administering department.

(2) The amount appropriated by this section shall be allocated in accordance with the following schedule:

(A) Public Health, $26,917,000:

(1) TB/Leprosy Control	1,094,000
(2) Sexually Transmitted Disease	2,536,000

(3) Immunizations	242,000
(4) Adolescent Family Life Program	1,958,000
(5) IRCA Subvention	17,527,000
(6) Public Health Administration	2,260,000
(7) Family Planning	1,300,000
(B) Public Assistance, $404,169,000:	
(1) General Assistance	779,000
(2) Foster Care	1,831,000
(3) AFDC-FG/U	825,000
(4) SSI/SSP	14,110,000
(5) Food Stamps (SAWS)	66,000
(6) Housing	3,148,000
(7) Medi-Cal	127,106,000
(8) California Children's Services	355,000
(9) Medically Indigent Services Program	212,978,000
(10) County Medical Services Program	5,250,000
(11) Primary Care Clinics	20,000,000
(12) Mental Health	12,000,000
(13) Housing and Community Development Administration	331,000
(14) Department of Social Services Administration	786,000
(15) Department of Mental Health Administration	342,000
(16) Department of Health Services Administration	2,619,000
(17) Health and Welfare Agency Administration	1,643,000
(C) Education, $128,740,000:	
(1) Adult Education	126,600,000
(2) State Department of Education and California Community College Chancellor's Office Administration	2,140,000
(D) Anti-Discrimination, $2,550,000:	
(1) Employment Development Department	884,000
(2) Department of Fair Employment and Housing	774,000
(3) Health and Welfare Agency	892,000

(b) Notwithstanding Sections 6.50, 8.50, and 28.00 of this act, the following provisions shall govern the augmentation and reduction of the amounts available for expenditure for any category or program in the schedule set forth in this item, and the transfers of funds among categories in the schedule set forth in this item:

(1) The Director of Finance may not authorize the augmentation of the total amount available for expenditure in the schedule set forth for appropriation in this item to reflect any available SLIAG funds which he or she determines

have not been taken into consideration in the schedule or are in excess of the amount so taken into consideration, except as follows:

(A) The Director of Finance may allocate the balance of any remaining funds authorized for expenditure by Section 14.00 of the Budget Act of 1987, Section 23.50 of the Budget Act of 1988, or Section 23.50 of the Budget Act of 1989 for any category or program in the schedule set forth for appropriation in this item. These transfers may be authorized not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the committees in each house which consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

(B) The Director of Finance may authorize the expenditure of any available SLIAG funds which he or she determines have not been taken into consideration in the schedule or are in excess of the amount so taken into consideration, if the director determines that the state's total five-year allocation exceeds $1,700,000,000 and that the additional expenditures can be sustained over the duration of the five-year expenditure plan within the revised estimate of SLIAG allocations. These additional expenditures may be authorized not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the committees in each house which consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

(2) The Director of Finance may authorize the further augmentation of the amount available for expenditure for any category or program in the schedule set forth for appropriation in this item for increases in the level of service due to increased caseload, utilization, or cost per unit of service. These augmentations may be authorized pursuant to the provisions of paragraph (4). The Director of Finance may not authorize the augmentation of the amount available for expenditure from SLIAG funds for new program activities not identified in the schedule set forth in this item.

(3) The Director of Finance may also reduce the amount available for expenditure for any category or program in the schedule set forth for appropriation in this item for reduc-

tions in the level of service due to decreased caseload, utilization, or cost per unit of service. These reductions may be authorized pursuant to the provisions of paragraph (4). The Director of Finance may not authorize the elimination of the expenditure from SLIAG funds for program activities identified in the schedule set forth in this item.

(4) The Director of Finance may authorize the augmentation or reduction of the amount available for expenditure for a category or program designated in the schedule set forth for such appropriation in this item by transfer from or transfer to any of the other designated categories or programs within this item for the purposes stated in paragraphs (2) and (3). These transfers may be authorized not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the committees in each house which consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

(5) In any situations not discussed in paragraphs (1), (2), (3), or (4), the provisions of Section 28.00 shall apply.

(c) To the maximum extent possible, public assistance and public health programs shall use existing delivery mechanisms, funding mechanisms and service providers to deliver services or benefits to newly legalized persons.

(d) Those funding mechanisms which currently allocate resources on the basis of the general population of the respective counties shall be interpreted to refer to the number of newly legalized persons in each county insofar as allocation of the SLIAG apportionment is concerned. Other funding mechanisms which may use variables different than population shall similarly be interpreted to utilize such variables only as they apply to newly legalized persons.

(e) It is intended that all SLIAG reimbursable costs shall be identified to ensure that California's allotment of federal SLIAG funds is maximized. Departments shall authorize service providers to claim SLIAG funds using a method of cost calculation allowable under federal SLIAG regulations which minimizes the under identification of all SLIAG reimbursable costs. The method of cost calculation which can be used may include, but shall not be limited to, the use of a statistically valid sample of a provider's caseload, or, for public health programs, the ratio of newly legalized persons in a service population to all members of the relevant service population.

(f) The Health and Welfare Agency and administering departments, including the Department of Education, shall take the

steps necessary to subrogate to the providers of service, the financial liability for inappropriate expenditure or nonuse of federal funds. Whenever current program requirements do not specify such responsibility, the appropriate state agency shall enter into agreements with providers calling for their acceptance of financial responsibility in return for allocation of funds by the state. Funds shall not be allocated to any provider by administering departments absent acceptance of financial responsibility for audit exceptions by the provider.

(g) The general assistance program will remain the responsibility of the counties in which newly legalized persons reside. The State Department of Social Services shall provide necessary oversight and shall allocate funds for newly legalized persons through the system which allows counties to claim general assistance funds for refugees. All preliminary allocations shall be adjusted on the basis of actual caseload experience to the extent funds are available.

(h) Records of services provided to newly legalized persons will be kept at the local level except for those programs that use central fiscal intermediary functions to process claims. Individual programs will require periodic reports from providers and will provide their managing state departments with summary data at suitable intervals. The managing departments will track the provision and cost of services to newly legalized persons.

(i) K–12 education services shall be limited to those newly legalized children who meet the requirement of the Federal Emergency Immigrant Education Act of having had less than three years of education in the United States. In accordance with federal SLIAG regulations, the Superintendent of Public Instruction shall allocate such funds, upon application by local school districts, to those districts that are highly impacted by the number of newly legalized children.

(j) The Department of Education shall distribute adult education SLIAG funds to community colleges, local school districts, and community-based organizations—including qualified designated entities authorized to provide educational services by the Immigration and Naturalization Service regulations—in accordance with an IRCA Adult Education Services Delivery Plan (AESDP). This plan shall be developed by the Department of Education in consultation with representatives of the different service provider groups, and shall be provided to the Director of Finance by September 15, 1990. Prior to allocation of any SLIAG funds to the Department of Education, the AESDP shall be approved by the Director of Finance.

(k) The Adult Education Services Delivery Plan shall specify:

1. The process for tracking SLIAG funds to newly legalized persons;

2. That the maximum average reimbursement per newly legalized person participating in educational services shall be the least of: (A) the service hours provided multiplied by $5.00; (B) $500 per newly legalized person per year; or (C) actual provider costs of providing services, as determined by applicable state and federal cost principles.

However, for instructional services, the Superintendent of Public Instruction may authorize rates of reimbursement not to exceed a statewide average of $5.50 per hour where these rates are necessary to provide services under special circumstances. These special rates of payment shall be approved by the Superintendent of Public Instruction prior to their taking effect, and may not exceed the limits imposed by subparagraphs (B) or (C).

Funding authorized pursuant to this subdivision may be used for allowable ancillary costs, including assessment, administration, educational counseling, staff training, recordkeeping, facility rental, child care, transportation, curriculum development, and outreach. Reimbursement shall not exceed actual costs.

Payment for all adult education services shall not exceed the amount authorized by this act or subsequent modifications thereto;

3. Appropriate guarantees or safeguards that the $500 dollar limit shall not be exceeded;
4. The requirement that INS approve individual providers to issue certificates of satisfactory pursuit, as a condition of their receiving SLIAG funds for English-as-a-Second Language (ESL) and civics instruction;
5. How community-based organizations and qualified designated entities may receive SLIAG educational funds in an expeditious and timely manner, while guaranteeing that appropriate standards of educational quality and fiscal accountability are maintained;
6. The appropriate division of responsibility between local school districts and the community colleges, including a reiteration of legislative intent that, notwithstanding Section 8530 of the Education Code, school and community college districts which do not currently provide adult education and noncredit instruction are eligible to participate in this program;
7. The appropriate division of responsibility between the Department of Education and the chancellor's office of the community colleges;
8. That a score of 215 on the Comprehensive Adult Student Assessment System (CASAS) test equates to a newly legalized person being able to demonstrate proficiency in English for the purposes of converting from temporary to permanent

residency status. ESL instruction also may be provided to newly legalized persons scoring at or above the CASAS 215 level. However, providers of educational services must target services as specified in paragraph (3) of subdivision (t);

9. That the State Department of Education shall submit quarterly reports to the Health and Welfare Agency, detailing the aggregate claims for reimbursement for adult education services, the total number of newly legalized persons served, the number of certificates of satisfactory pursuit issued by SLIAG-participating providers, and the number of pre-1982 individual and SAW's served, including individuals served who do not need an educational service to convert to permanent residency; and

10. That K–12 school districts and community colleges shall not receive General Fund apportionments for services provided to newly legalized persons where reimbursement for such services has been provided from SLIAG funds.

(lx) (1) The Health and Welfare Agency shall oversee outreach activities targeted to newly legalized persons. The outreach efforts shall cover, to the extent SLIAG reimbursement and federal law allow, all of the following:

(A) Information on the steps temporary legal residents must take to obtain permanent legal resident status, including information on the specific requirements to obtain this status and guidelines for courses of study for English language and civics instruction as established by the Immigration and Naturalization Service (INS), and how and where to obtain these education services.

(B) Information about employment, health, education, and social services available; the importance of identifying oneself as a newly legalized person to providers of these services; the rights and responsibilities of newly legalized persons; and how to obtain help in dealing with the legalization process.

(2) The Health and Welfare Agency shall have the discretion to utilize up to $1,250,000 in funds for these comprehensive coordinated outreach activities, and to distribute these funds to nonprofit organizations based on what it determines is necessary to accomplish the objectives of the outreach program. Contractors shall distribute all appropriate materials developed concerning requirements for change in status from temporary legal resident to permanent legal resident to existing providers of education and health services to eligible legalized persons. These outreach services shall be consistent with, and provided in coordination with, the outreach services provided pursuant to paragraphs (1) and (3). To the extent feasible, outreach contractors shall subcon-

tract with local community-based organizations and qualified designated entities for face-to-face or other community-based outreach efforts.

(3) (A) In addition to efforts undertaken by the Health and Welfare Agency, the Department of Health Services, the State Department of Education, and the Department of Mental Health shall have the discretion to use, from their departmental allocations set forth in paragraph (2) of subdivision (a), funds to provide outreach on the availability of health, social, employment, and educational services to newly legalized persons. These outreach services shall be consistent with, and provided in coordination with, the outreach services provided pursuant to paragraphs (1) and (2). The departments may provide these outreach services through local government agencies and private nonprofit providers serving SLIAG-eligible persons, as the participating departments, in consultation with SLIAG providers, deem most appropriate.

(B) In consulting service providers, the State Department of Education shall utilize its statewide advisory council operating pursuant to subdivision (x). The Department of Health Services shall form an ad hoc advisory group composed of representatives of primary care clinics, local health officers, and county indigent health care program administrators. The Department of Mental Health shall consult the California Conference of Local Mental Health Directors and the California Council on Mental Health. The departments shall consult with service providers; develop necessary program structure, policies, and procedures; and commence outreach program implementation no later than January 1, 1991.

(C) The Department of Health Services may utilize up to $1,369,000 to provide unserved newly legalized persons with information on how to obtain needed health care services, with the goal of establishing a preventive and primary care relationship between providers and members of this population.

(D) The State Department of Education may utilize up to $1,100,000 to reach eligible legalized persons with CASAS scores of under 200 and those not yet evaluated on the CASAS instrument.

(E) The Department of Mental Health may utilize up to $60,000 to provide general information to the newly legalized population about mental health services offered in their communities and how to gain access to them.

(m) Each state department which receives or administers SLIAG funds shall make available, where necessary, through existing

programs, technical assistance and training to service providers. Technical assistance may include information and training in cost tracking and identification systems, accounting procedures and program accountability, reimbursement claim preparation, and identification procedures for newly legalized persons. The departments shall ensure that this assistance is allowable under federal SLIAG regulations and guidelines. The departments may provide this technical assistance directly through existing programs or through contracts with individuals or organizations having expertise in program areas, and may implement this technical assistance through any of the following:

(1) Local or regional or statewide workshops.
(2) Identification of model programs.
(3) Onsite consultation.
(4) Statewide training/association activities.

(n) Primary care clinics may participate in established public health program contracting processes in order to be reimbursed from other funding sources. The Department of Health Services shall coordinate its various public health contracting programs to allow eligible primary care clinics to apply for provider status in public health programs as appropriate.

(o) The Department of Education, in providing administrative oversight of SLIAG programs, shall assist community-based organizations in establishing educational programs for newly legalized persons, in locating credentialed instructors and in obtaining in-service training.

(p) (1) All entities providing ESL classes to newly legalized persons shall employ at least one teacher/coordinator who holds a certificate or credential recognized by the appropriate credentialing agency as an indicator of the teacher's ability to teach in a language development program. All other individuals who teach ESL classes shall:

(A) Hold a bilingual education or language development specialist certificate issued by the appropriate credentialing agency; or
(B) Be credentialed and have successfully completed college coursework or training in ESL.

(2) When no teacher meeting the above criteria is available for placement, individuals who meet any of the following criteria and agree to participate in mandatory, concurrent training in ESL may be hired. Eligible candidates include individuals who:

(A) Are not credentialed, but have ESL college coursework or training; or
(B) Have established proven experience of not less than 6 months of successful direct ESL instruction with any age group.

(q) (1) Counties which claim SLIAG funds for indigent health services based on the documentation of services provided to individual eligible legalized aliens, to the extent SLIAG funds are allowable and to the extent this information is not now available, shall implement, by the end of the 1990–91 state fiscal year, the Medically Indigent Care Reporting System, as defined by the State Department of Health Services. This system shall provide, at a minimum, specific patient identification and linkage to incurred costs for the five service categories below:

(A) Inpatient services rendered to newly legalized persons and associated costs.

(B) Outpatient services and associated costs.

(C) Emergency and associated costs.

(D) Pregnancy-related services and associated costs.

(E) Contract services and associated costs.

(2) Counties which claim SLIAG funds for medically indigent health services based on statistically valid sampling shall submit their sampling plans, inclusive of all methodologies and protocols, to the Department of Health Services for review and approval. Prior to this approval, the state department shall submit the sampling plan to the United States Department of Health and Human Services for review and comment. Any such approval by the state department shall categorically include the federal comments and shall be contingent thereon. Approval of a sampling plan shall in no way set aside the requirement for subrogation of financial liability for inappropriate expenditure or nonuse of funds contained in subdivision (f). Nothing in this subdivision shall be construed to preclude the state department from disapproving a sampling plan for cause.

(3) Counties shall have the option of utilizing either of the methods described in paragraph (1) or (2) for claiming SLIAG funds for indigent health services.

(4) The State Department of Health Services, in consultation with the Health and Welfare Agency, shall inform counties concerning the extent to which SLIAG funds may be used to design, develop, implement, and maintain data collection and auditing systems, and shall monitor county implementation of the Medically Indigent Care Reporting System (MICRS). Counties shall submit an implementation plan to the department no later than six months after receipt of written federal assurance that costs incurred in the design, development, and implementation of MICRS are reimbursable using SLIAG funds. Counties shall have an appropriate patient identification system in place no later than eight months after receipt of this written assurance.

(r) (1) (A) The State Department of Education (SDE) shall establish a funding allotment for each approved adult education SLIAG provider. The SDE shall adjust individual allotments at the end of the fall semester and also periodically as deemed necessary, to reflect updated estimates of enrollment and funding available. The SDE shall also apportion at least 10 percent of the appropriation to a reserve pending the midyear adjustment or adjustments.

(B) The aggregate funding allotments for all adult education providers shall be based on a total student enrollment of 383,000 newly legalized persons, each receiving an average of 60 hours of instruction. In establishing and adjusting provider funding allotments, SDE may fund more than 383,000 students or provide for average attendance hours in excess of 60 hours, provided that all adult education services are funded within the appropriation specified in clause (1) of subparagraph (C) of paragraph (2) of subdivision (a). SDE shall notify the Department of Finance in advance if provider allotments exceed 383,000 students or 23,000,000 instructional hours.

(2) For the purpose of determining each provider's funding allotment, the SDE shall calculate an amount for each provider based on the following list of priorities. The calculation shall commence with subparagraph (A) for all providers statewide, and shall proceed until the total amount of funding made available for this purpose has been exhausted:

(A) 60 hours of instruction for each pre-1982 individual in need of a certificate of satisfactory pursuit, and not previously enrolled for 60 hours or meeting alternative means of demonstrating satisfactory pursuit. The SDE's calculation shall be based on the department's estimates of the number of these individuals in each county, minus estimates of the number of those individuals receiving non-SLIAG funded services. Funding associated with these individuals shall be prorated among providers within each county based on the discretion of the Superintendent of Public Instruction, but primarily based on 1988–89 and 1989–90 enrollment counts.

(B) Additional hours for ESL and civics instruction for pre-1982 individuals and Special Agricultural Workers (SAW's), at the discretion of the Superintendent of Public Instruction.

(C) Additional hours for other SLIAG-allowable adult education instruction, at the discretion of the Superintendent of Public Instruction.

(s) For the purpose of initiating new programs or expanding existing ones, the State Department of Education shall consider a geographic area as severely underserved when:

(1) There are 50 or more priority individuals, as defined in subdivision (t), who are living in the geographic area and who need enrollment in an ESL/civics class in order to successfully apply for lawful permanent residency; and

(2) There are no ESL/civics class programs approved by the United States Department of Justice to issue certificates of satisfactory pursuit in the geographical area, or all existing classes in the geographical area have waiting lists of six months or longer enrollment backlog; and

(3) It is more than 40 miles, or one-hour's travel time (one way), between the underserved area and the nearest ESL/civics provider which will have sufficient vacant class slots within the next six months.

(t) (1) Priority students for ESL and civics instruction are defined as persons who are applicants for permanent residence pursuant to Section 245A of the Immigration Reform Control Act of 1986 (P.L. 99-603), who score below a level of 215 on the standardized Comprehensive Adult Student Assessment System (CASAS) or a correlative score on any other standardized literacy test approved by the Superintendent of Public Instruction, or who have failed the legal proficiency test administered by the Immigration and Naturalization Service (INS) or its designated agencies, and who have not yet demonstrated that they are "satisfactorily pursuing" English and United States civics, as defined in paragraph (s) of Part 245a.1 of Title 8 of the Code of Federal Regulations and cannot qualify for any alternatives to demonstrating satisfactory pursuit other than enrolling in an adult education program.

(2) As a condition of receiving funds, providers of ESL and civics instruction shall maintain waiting lists of prospective students eligible under the State Legalization Impact Assistance Grant (SLIAG) program identified by adjustment status pursuant to Sections 210 and 245A of Public Law 99-603. The waiting lists shall specify: (1) each individual's status (Pre-1982 or SAW); (2) CASAS score (when assessed); and (3) whether the individual was previously enrolled for the purposes of meeting INS requirements, qualifies for any alternatives to demonstrating satisfactory pursuit, or has passed the legal proficiency test administered by the INS (or its designated agencies), has failed this test, or has qualified for a certificate of satisfactory pursuit.

(3) In addition, at the end of each quarter or semester, including the summer quarter or semester, providers shall reenroll all SLIAG-funded individuals, vacancies permitting. At these times, or any other time when a vacancy arises, providers shall enroll students based on the following priorities:
   (A) Priority students scoring below 215 CASAS, or who have failed an INS-approved proficiency test, in need of 60 hours of instruction in order to obtain a certificate of satisfactory pursuit and who do not qualify for any of the alternative means of demonstrating satisfactory pursuit.
   (B) Students scoring 215 CASAS or above who do not qualify for any of the alternative means of demonstrating satisfactory pursuit, but who reside 40 miles or more from an INS test center (or one hour travel time, one way), and who are in need of 60 hours of instruction in order to obtain a certificate of satisfactory pursuit.
   (C) Students scoring below 215 CASAS who: (i) have qualified for a certificate of satisfactory pursuit; or (ii) are SAW's.
   (D) Students scoring 215 CASAS or above and previously enrolled and not in need of a certificate of satisfactory pursuit.
   (E) Students scoring 215 CASAS or above and not previously enrolled and not in need of a certificate of satisfactory pursuit.

(4) Providers shall schedule future dates on which priority individuals on waiting lists can enroll and on which other students shall reenroll, and shall inform individuals on waiting lists of these dates at the time they are included on the lists.

(5) For any given semester, providers who certify to the superintendent that there are no priority students on their waiting lists are exempt from the reenrollment requirements for that semester.

(6) If the State Department of Education has determined that a SLIAG-funded education agency has provided an average of over 100 hours of instruction at the end of the first semester, and the provider has a waiting list with priority students subsequent to enrolling second (Spring) semester students, the State Department of Education shall instruct that provider to reenroll all SLIAG-funded students during the second semester once the average hours of instruction reaches 60 hours. Reenrollment shall be based on the priorities as set forth in paragraph (3).

(7) The State Department of Education shall issue guidelines defining the maximum number of weeks allowable in a given semester or quarter.

(8) This subdivision shall apply notwithstanding any provision of the Education Code or any other provision of law.

(u) It is the intent of the Legislature that educational service providers encourage individuals scoring above 210 CASAS to take the Immigration and Naturalization Services proficiency test before enrolling in adult education classes. The SDE shall notify providers of this policy.

(v) Educational providers receiving SLIAG funds shall report to the State Department of Education, no later than November 1, 1990, the following information by category (pre-1982, SAW, below or above 215 CASAS): the number of individuals served, the number still on waiting lists, the number of certificates of satisfactory pursuit issued, and any other data deemed necessary by the State Department of Education and the Health and Welfare Agency for making midyear allotment adjustments.

(w) The aggregate allotments made to all participating community colleges pursuant to subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (r), plus a proportional amount of the funds reserved for the midyear adjustment required by paragraph (1) of subdivision (r), shall be considered a program appropriation, just as if it were separately scheduled under subparagraph (C) of paragraph (2) of subdivision (a). The State Department of Education, in consultation with the Chancellor's office and the Department of Finance, shall have the authority to adjust the amounts allocated to individual community college districts. However, should these adjustments either augment or reduce the total amount of funds available to community colleges, these adjustments shall only be authorized subject to the legislative notification procedure set forth in paragraphs (2), (3), and (4) of subdivision (b).

(x) The State Department of Education shall maintain a statewide advisory council of community-based organizations, qualified designated entities, adult education providers, and community college providers to assist the department in the coordination of administrative, reimbursement, and funding allocation processes, outreach, and technical assistance efforts.

(y) All contracts and agreements involving SLIAG funds shall require both contracting parties to maintain confidentiality of all beneficiary information relating to immigration status. The contracts shall specify that this information shall not be released to the United States Immigration and Naturalization Service, or to any other agency, without the beneficiary's consent, unless this release is required by state or federal law.

(z) The maximum average reimbursement rate for instructional services established by paragraph (2) of subdivision (k) shall govern the payment of adult education provider claims for the 1989–90 fiscal year, except that:

(1) The Superintendent of Public Instruction may authorize rates of payment in excess of $5.00 per hour, but not to exceed a statewide average of $5.00 per hour.

(2) These special rates of payment shall not be subject to the superintendent's prior approval.

(3) Payment for all adult education services shall not exceed the amount authorized by the Budget Act of 1989 or subsequent modifications thereto.

(za) (1) The Health and Welfare Agency shall oversee education and outreach activities on employment discrimination. The education and outreach efforts shall cover, to the extent SLIAG reimbursement and federal law allow, all of the following:

(A) Education and outreach to California employers regarding practices of unfair discrimination in employment, based on national origin or citizenship status.

(B) Education and outreach to persons in California regarding their rights to protection from unfair discrimination in seeking or retaining employment, based on national origin or citizenship status. This educational outreach shall include material on the processes and procedures for redressing unfair discriminatory practices in accordance with federal and state law.

(2) The Health and Welfare Agency shall have the discretion to utilize up to $892,000 for community-based education and outreach activities to be performed by private nonprofit organizations. Contractors shall distribute all appropriate materials developed to existing providers of education and health services to eligible legalized persons and shall coordinate their activities with these providers. The Department of Fair Employment and Housing and the Employment Development Department shall have the discretion to utilize up to $774,000 and $884,000, respectively, for their antidiscrimination education and outreach activities. These activities shall focus primarily on employer education efforts and shall use, where feasible, existing communication networks and state staff to provide information and assistance to employers and employer groups.

(zb) (1) All participating departments shall develop plans dealing with the transition from SLIAG funding for each program under their jurisdiction. These plans shall detail the number of newly legalized persons served by the program, the costs of services provided them, the projected need to provide continuing services to newly legalized persons, the feasibility of meeting this need through existing program resources, the sources of funding for continuing services if existing program resources are inadequate, and the consequences of not providing continuing services to newly le-

galized persons.

(2) The departments shall submit their plans to the Health and Welfare Agency by December 1, 1990. The agency shall consider these plans as part of its recommendations for expenditure of SLIAG funds for the 1991–92 fiscal year, and shall provide a consolidated SLIAG transition plan to the Governor and the Legislature by January 10, 1991.

(zc) The Department of Mental Health shall notify counties, as part of its SLIAG funding process, that it is appropriate that nonprofit community mental health clinics be incorporated, to the extent feasible, into the network of providers of outreach and mental health services to newly legalized persons.

(zd) If additional federal funds become available above the amount appropriated in this act, the Controller shall augment the appropriation in clause (1) of subparagraph (C) of paragraph (2) of subdivision (a) by the amount of the additional federal funds available, provided that the augmentation made pursuant to this subdivision shall not exceed $16,000,000.

EDUCATION

SEC. 24.00. For the 1990–91 fiscal year, the oil and mineral revenues from federal lands which are deposited in the State School Fund shall be divided between Section A and Section B of the State School Fund, with 85 percent of these revenues to be credited to Section A of the fund exclusively for K–12 district regular apportionments and 15 percent to Section B of the fund exclusively for community college regular apportionments. The amounts accruing to the State School Fund under this section shall be disbursed fully before any General Fund transfers to Section A or Section B of the State School Fund are disbursed for regular apportionments.

SEC. 24.10. Notwithstanding the provisions of Section 1464 of the Penal Code, added by Chapter 530, Statutes of 1980, and Section 41304 of the Education Code, the State Controller shall transfer the unencumbered balance in the Driver Training Penalty Assessment Fund on June 30, 1991, to the General Fund.

SEC. 24.60. (a) From the funds appropriated in Items 4300-003-814, 5460-001-831, 6110-006-814, 6110-101-814, 6440-001-814, 6600-001-814, 6610-001-814, 6860-001-814, and 6870-101-814 of this act, the Department of Developmental Services, the Department of the Youth Authority, the State Special Schools, Regents of the University of California, Directors of Hastings College of the Law, Trustees of the California State University system, Board of Governors of the California Maritime Academy, and community college districts through the chancellor shall report to the Governor and the Legislature no later than January 15, 1992, the amount of lottery funds which each entity received and the purposes for which the funds were expended in the 1990–91 fiscal year, including administrative costs and proposed ex-

penditures and purposes for expenditure for the 1991–92 fiscal year. If applicable, the amount of lottery funds received on the basis of adult education ADA and the amount of lottery funds expended for adult education also shall be reported.

(b) The State Department of Education shall conduct a survey of a representative sample of 100 local educational agencies to determine the patterns of use of lottery funds in those agencies. The sample shall be drawn to include all local educational agencies over 200,000 ADA and representative local educational agencies randomly selected by size, range, type, and geographical dispersion. On or before January 15, 1991, the State Department of Education shall report to the Legislature and the Governor the results of the survey for the 1989–90 fiscal year.

SEC. 26.60. Notwithstanding any other provision of law, 30 days prior to the Department of Food and Agriculture's entering into interim financing or long-term financing, including bond agreements, pursuant to Article 9 (commencing with Section 19590) of Chapter 4 of Division 8 of the Business and Professions Code, the department shall submit a report to the Chairperson of the Joint Legislative Budget Committee with copies to the Chairpersons of Senate Budget and Fiscal Review Subcommittee Number 2, Assembly Ways and Means Subcommittee Number 3, the Senate Select Committee on Fairs and Rural Issues, and the Subcommittee on Fairs and Expositions of the Assembly Committee on Agriculture. The report shall list: (a) proposed individual satellite wagering expansion projects at fairs, (b) costs for constructing, operating, and maintaining individual satellite wagering projects, (c) net revenue projections for individual satellite wagering projects, and (d) projected effect on net Satellite Wagering Account revenue resulting from individual satellite wagering projects and satellite wagering related projects. Additional notification is not required for financing proposals unless refinancing will result in the expenditure of additional funds, in which case the report shall include the above-requested information relating only to the new debt. Reporting shall only be required for satellite wagering projects funded by interim financing or long-term financing, including bond agreements.

SEC. 27.00. (a) Approval by the Department of Finance of the creation of deficiencies pursuant to Section 11006 or approval to expend at rates which, in the opinion of the Director of Finance, will require a deficiency appropriation shall not be made unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and chairperson of the committee in each house which considers appropriations not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine, except for an approval for an emergency expenditure. This notification requirement is not applicable to caseload increases in Medi-Cal, Aid to Families with De-

pendent Children (AFDC), and Supplemental Security Income/State Supplementary Program (SSI/SSP). All notifications shall include (1) the date a deficiency request was received by the Department of Finance, (2) the reason for the proposed deficiency, and (3) the approved amount.

(b) Approval for any emergency expenditure shall be made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations not later than 10 days after the effective date of the approval. All notices shall state the reason for and amount of the deficiency.

As used in this section, "emergency expenditure" means an expenditure incurred in response to conditions of disaster or extreme peril which threaten the health or safety of persons or property within the state.

(c) The Department of Finance shall report quarterly to the Chairperson of the Joint Legislative Budget Committee and the fiscal committee of each house on the cumulative deficiency requests approved pursuant to subdivisions (a) and (b). The report shall contain the information required in paragraphs (1), (2), and (3) of subdivision (a). This report shall be filed within 15 days after the close of each fiscal quarter.

(d) The Department of Finance shall provide copies of all requests from agencies to spend at rates which will result in a deficiency appropriation to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations. The department shall submit these copies within 10 days of receipt. The transmittal of this information to the Legislature shall not be construed by the requesting agency as approval of the deficiency request.

(e) For purposes for which the Governor previously vetoed funding, allocation of funds or authorization for deficiency expenditures shall not be made under the emergency provisions.

SEC. 27.50. (a) The California Auctioneer Commission, the Board of Chiropractic Examiners, the Board of Osteopathic Examiners, the Board of Pilot Commissioners, and any board or bureau within the Department of Consumer Affairs shall provide written notification to the Department of Finance, the Joint Legislative Budget Committee, and the fiscal committees of the Legislature 30 days prior to the expenditure of funds to pursue or defend against a lawsuit which is not directly related to consumer protection.

(b) As used in this section, "a lawsuit directly related to consumer protection" means a lawsuit against or filed by a licensee of the board, bureau, or commission itself. All notifications shall contain: (1) the reason for being involved in the lawsuit; (2) the anticipated cost of the lawsuit; and (3) details of how the costs will be covered within the authorized budget or through a deficiency request authorization pursuant to Section 27.00 or 28.00 of this act. The transmittal

of this information to the Legislature shall not be construed by the board, bureau, or commission as approval to be involved in the lawsuit.

SEC. 28.00. (a) The Director of Finance may authorize the augmentation of the amount available for expenditure for any category or program in the schedule set forth for any appropriation in this act or any additional category or program in the amount of any funds which he or she estimates will be received by an officer, department, division, bureau, or other agency during the 1990–91 fiscal year from any other state agency, from any agency of local government or the federal government, from any appropriation made by the Legislature or from any other source which he or she determines has not been taken into consideration in the schedule or is in excess of the amount so taken into consideration.

(b) The Director of Finance may also reduce any category or program whenever he or she determines that funds to be received will be less than the amount taken into consideration in the schedule.

(c) The augmentations or reductions set forth in paragraphs (1) to (5), inclusive, may not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. This notification requirement is not applicable to federal funds related to caseload increases in Medi-Cal, Aid to Families With Dependent Children (AFDC) and Supplemental Security Income/State Supplementary Program (SSI/SSP).

(1) Augmentations or reductions which either are (A) in excess of $100,000 or (B) are in excess of 10% of the amount available for expenditure in the affected category or program.

(2) Any other augmentations which the Director of Finance determines constitute an increase in the level of services above that authorized by this act or other existing law or are for a new program not identified in this act as such.

(3) Any other reductions which the Director of Finance determines constitute a decrease in the level of service below that authorized by this act or other existing law.

(4) Any augmentation, regardless of the amount, for the purpose of funding a task force or advisory council created by executive order of the Governor.

(5) Any reduction in excess of 5% of the amount available for expenditure for any program funded from the Cigarette and Tobacco Products Surtax Fund.

(d) Any personnel action which is dependent on funds subject to the provisions of this section shall not be effective until after the provisions of this section have been complied with. Any authorization made pursuant to this section too late for inclusion in the Governor's

Budget for the 1991–92 fiscal year shall remain in effect for the period the director may determine in each instance, but in no event after June 30, 1992.

(e) All authorizations reported or requested under the provisions of this section shall include all of the following:

(1) A description of the proposed expenditure and identification of the statutory authority for the expenditure.

(2) A determination whether the expenditure, if federally funded, is specifically designed to be one-time, a continuing federal obligation, or one that the state is required (or expected) to fund at some future date.

(3) A determination whether the expenditure, if federally funded, supplements or replaces existing state expenditures.

(4) A determination whether the expenditure has previously been considered at some point in the legislative process and has been denied and, if the expenditure has been denied, for what reasons.

(f) All increased expenditures from department indirect cost funds in excess of the amount budgeted in this act or identified in a prior Section 28.00 notification are subject to the reporting requirements of this section.

SEC. 29.00. The Department of Finance shall calculate and publish a listing of total personnel-years and estimated salary savings for each department and agency. These listings shall be published by the Department of Finance at the same time as the publication of (a) the Governor's Budget, (b) the May revision and (c) the Final Change Book.

(a) The listing provided at the time of the publication of the Governor's Budget shall contain estimates of personnel-years for the prior year, current year, and budget year.

(b) The listing provided at the time of publication of the May revision shall contain estimates of personnel-years proposed for the budget year.

(c) The listing provided at the time of the publication of the Final Change Book shall contain estimates of personnel-years for the budget year just enacted.

SEC. 30.00. Section 13340 of the Government Code is amended to read:

13340. On and after July 1, 1991, no moneys in any fund which, by any statute other than a Budget Act, is continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance.

SEC. 31.00. The appropriations under this act, unless otherwise provided, shall be subject to the provisions of Section 13320 of the Government Code and Article 2.5 (commencing with Section 13332) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code requiring expenditures to be made in accordance with the al-

lotments and other provisions of fiscal year budgets approved by the Department of Finance.

The fiscal year budget shall authorize in the manner which the Department of Finance shall prescribe all established positions whose continuance for the year is approved and all new positions. No new position shall be established unless authorized by the Department of Finance on the basis of work program and organization.

The Director of Finance, or his or her authorized designee, shall notify the Chairperson of the Joint Legislative Budget Committee within 30 days of authorizing any position not authorized for that fiscal year by the Legislature or any reclassification to a position with a minimum step per month of $3,020 as of July 1, 1990 and $3,171 as of January 1, 1991. He or she shall also report all transfers to blanket authorizations and the establishment of any permanent positions out of a blanket authorization.

All positions administratively established pursuant to this section during the 1990–91 fiscal year shall terminate on June 30, 1991, except for those positions which have been (a) included in the 1991–92 Governor's Budget as proposed new positions, or (b) approved by the Department of Finance and reported to the Legislature after the 1991–92 Governor's Budget submission to the Legislature. The positions set forth in (a) and (b) above may be reestablished by the Department of Finance during the 1991–92 fiscal year, provided these positions are shown in the 1992–93 proposed Governor's Budget submitted to the Legislature, or in subsequent Department of Finance letters to the Legislature, and provided that these positions do not result in establishment of positions deleted by the Legislature through the 1991–92 budget process.

Each fiscal year budget shall provide for a salary savings reserve to which shall be transferred on a document initiated by the agency the unencumbered balance remaining in each allotment for salaries and wages at the close of each quarter or other period of time covered by the allotment. A copy of this document shall be submitted to the Department of Finance upon request. The unencumbered balance remaining in each budget allotment for salaries and wages shall be computed by deducting from the amount of the allotment the expenditures and accrued obligations for salaries and wages chargeable to the allotment for the period covered thereby. The amount in the salary savings reserve shall not be available for expenditure except upon transfer to allotments for salaries and wages approved by the Department of Finance. This transfer shall be approved only after it has been demonstrated to the satisfaction of the Department of Finance that the allotment to be augmented is insufficient to meet necessary expenditures for salaries and wages.

No money in any 1990–91 fiscal year appropriation not appropriated for that purpose may be expended for increases in salary ranges or any other employee compensation action(s) unless the Department of Finance certifies to the salary and other compensation-

setting authority prior to the adoption of these action(s) that funds are available to pay the increased salary or employee compensation resulting therefrom. Prior to certification, the Department of Finance shall determine whether this increase in salary range or employee compensation action will require supplemental funding in the 1991–92 fiscal year. If the Department of Finance determines that supplemental funding will be required, no certification shall be issued unless notification in writing is given by the Department of Finance, at least 30 days before certification is made, to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or a lesser time which the chairperson of the joint committee, or his or her designee, determines.

A certification on a payroll claim that expenditures therein are in accordance with current budgetary provisions as approved by the Department of Finance shall be sufficient evidence to the State Controller that these expenditures comply with the provisions of this section.

Each agency, department, board, commission, and institution, for whose benefit and support appropriations are made in this act, shall certify to the Director of Finance that its expenditures have been made for the purposes stated in the budget, as implemented by the Budget Act, except as the purposes stated have been revised, in accordance with law, by the Department of Finance subsequent to the enactment of the Budget Act.

SEC. 32.00. The officers of the various departments, boards, commissions, and institutions, for whose benefit and support appropriations are made in this act, are expressly forbidden to make any expenditures in excess of these appropriations, unless the consent of the Department of Finance is first obtained, and a certificate, in writing, is duly signed by the director of the department seeking authority for the expenditure, certifying the unavoidable necessity of the expenditure. Any indebtedness attempted to be created against the state in violation of the provisions of this section shall be absolutely null and void, and shall not be allowed by the State Controller nor paid out of any state appropriation. Any member of a department, board, commission or institution, who shall vote for any expenditure, or create any indebtedness against the state in excess of the respective appropriations made by this act, except by the consent of the Department of Finance and the certificate in this section provided to be first obtained, shall be liable both personally and on his or her official bond for the amount of the indebtedness, to be recovered in any court of competent jurisdiction by the person or persons, firm or corporation to which the indebtedness is owing.

The Department of Finance shall submit copies of certificates approved by it under this section to the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the committee in each house which considers appropriations, quarterly, and shall in-

dicate in the case of each certificate the code section or section of this act under which the department gave its consent to exceed the particular appropriation.

SEC. 33.00. If any item of appropriation in this act is vetoed, eliminated, or reduced by the Governor under Section 10 of Article IV of the Constitution, while approving portions of this act, such veto, elimination, or reduction shall not affect the other portions of this act, and these other portions of this act, so approved, shall have the same effect in law as if any vetoed or eliminated items of appropriation had not been present in this act, and as if any reduced item of appropriation had not been reduced.

SEC. 33.50. If the appropriation in category (f) of Item 5180-151-001 of Section 2.00 of this act is reduced or eliminated by the Governor pursuant to subdivision (b) of Section 10 of Article IV of the California Constitution, the Director of Finance shall transfer from the Restitution Fund the amount of funds necessary so that at least ten million three hundred thousand dollars ($10,300,000) shall be available during the 1990–91 fiscal year for the support of the Office of Child Abuse Prevention in accordance with Chapter 12 (commencing with Section 18975) of Part 6 of Division 9 of the Welfare and Institutions Code.

SEC. 34.00. If any portion of this act is held unconstitutional, such decision shall not affect the validity of any other portion of this act. The Legislature hereby declares that it would have passed this act, and each portion thereof, irrespective of the fact that any other portion be declared unconstitutional.

SEC. 35.00. This act, inasmuch as it provides for an appropriation for the usual current expenses of the state, shall, under the provisions of Section 8 of Article IV of the Constitution of the State of California, take effect immediately.

SEC. 36.00. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act makes appropriations and contains related provisions for support of state and local government for the 1990–91 fiscal year and provides for capital outlay appropriations, in continuation of existing programs and to promote and sustain the economy of the state. It is imperative that these appropriations be available for expenditure commencing not later than July 1, 1990. It is therefore necessary that the act go into immediate effect.

INDEX BY BUDGET TITLE

SEC. 99.00. The following provides an index to the appropriations and related provisions of this act, by organization in alphabetical order, with the code number of the affected organization. The organization code is the first four numbers of any item number in this act. For ease of reference, the appropriation items in this act are organized in numerical order, and all of the appropriation items for any one organization are adjacent to one another.

Department	Organization Code
"A"	
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Air Resources Board	3400
Alcohol and Drug Programs, Department of	4200
Alcoholic Beverage Control, Department of	2100
Alcoholic Beverage Control Appeals Board	2120
Alternative Energy Source Financing Authority, California	0971
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Arts Council, California	8260
Assembly	0120
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Assistance to Counties for Defense of Indigents	8160
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Automotive Repair, Bureau of	1150
"B"	
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Behavioral Science Examiners, Board of	1170
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Department	Organization Code
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Cemetery Board	1180
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Child Abuse Prevention, Office of	5180
Child Development Programs Advisory Committee.	4220
Chiropractic Examiners, Board of	8500
Coastal Commission, California	3720
Coastal Conservancy, State	3760
Collection and Investigative Services, Bureau of	1200–1210
Colorado River Board of California	3460
Commerce, Department of	2200
Community Colleges, Board of Governors of the California	6870
Conservation, Department of	3480
Conservation Corps, California	3340
Consumer Affairs, Department of	1110–1655
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Contingencies or Emergencies, Reserve for	9840
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Control, Board of	8700
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Debt Advisory Commission, California	0956
Debt Limit Allocation Committee, California	0959
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Developmental Disabilities, Area Boards on	4110
Developmental Disabilities, State Council on	4100
Developmental Services, Department of	4300
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"E"	
Economic Development, Commission for	8200
Economic Opportunity, Department of	8915

Department	Organization Code
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Emergency Medical Services Authority	4120
Emergency Services, Office of	0690
Employee Compensation, Augmentation for	9800
Employment Development Department	5100
Energy Resources Conservation and Development Commission, State	3360
Equalization, State Board of	0860
Exposition and State Fair, California	8560

"F"

Fair Employment and Housing Commission	1705
Fair Employment and Housing, Department of	1700
Fair Political Practices Commission	8620
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"G"

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"H"

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Department	Organization Code
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Department	Organization Code
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Vocational Nurse and Psychiatric Technician Examiners, Board of	1590–1600
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Water Resources Control Board, State	3940
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Workers' Compensation Benefits for Subsequent Injuries	8450
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INDEX FOR CONTROL SECTIONS

SEC. 99.50. The following is an index to the general sections of this act. These sections serve to define terms and restrictions on the appropriations contained herein.

1.00 Budget Act Citation
1.50 Intent and Format
2.00 Appropriations
3.00 Defines terms
3.50 Benefit Charges against Salaries and Wages
3.60 Contribution to Public Employees' Retirement Benefits
3.75 Centrex Service Costs
4.00 Health Benefits Contribution
4.20 Contribution to Public Employees' Contingency Reserve Fund
5.00 Attorneys Fees
5.50 Contract Approvals
6.00 Alterations limits
6.50 Intraschedule transfers
7.50 Appropriation Augmentations
8.50 Federal Funds Receipts
8.51 Federal Funds Accounts
8.60 Federal Pass-Through Funds
9.10 Supplemental Report of Conference Committee
9.20 Administrative Costs associated with the acquisition of property
9.50 Capital Outlay Projects
11.50 Transfers pursuant to Section 6217 of the Public Resources Code
11.51 Energy-related Fund Transfers
11.55 Transfers between the Outer Continental Shelf Land Act Section 8(g) Revenue Fund and Federal Trust Fund
11.60 Accounting of, and Allocations from, California Unitary Fund
11.61 Repayment of Election Fees
12.00 State Appropriations Limit (SAL)
12.30 Special Fund for Economic Uncertainties
12.31 Education Contingency Expenditures
12.32 Proposition 98 Funding Guarantee
13.00 Legislative Counsel Bureau
18.10 Lease agreements of Department of Recreation and Parks
19.00 Loan Repayments Pursuant to Chapter 1442, Statutes of 1989
22.00 Set-aside Appropriation for Future GAIN Expenditures
23.50 Immigration Reform and Control Act (IRCA)
24.00 State School Fund Allocations
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24.60 Report of Lottery Funds Received
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29.00 Personnel Year Estimates of May Revision and Final Change Book
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32.00 Prohibits Excess Expenditures
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33.50 Contingency Funding for the Office of Child Abuse Prevention
34.00 Constitutional Severability
35.00 Provides that Budget Act is for Usual and Current Expenses
36.00 Urgency Statute
99.00 Alphabetical Organization Index
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CHAPTER 468

An act to amend Sections 1120, 1136, 1163, 1171.5, 1190, and 1195 of, and to add Sections 1159.1 and 1196 to, the Harbors and Navigation Code, relating to pilots, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 7, 1990. Filed with Secretary of State August 8, 1990]

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

SECTION 1. Section 1120 of the Harbors and Navigation Code is amended to read:

1120. Vessels which use pilotage services, and their tackle, apparel, furniture, and other appurtenances, and their owners, operators, and agents are jointly and severally liable for pilotage fees and for the surcharges established pursuant to this division.

SEC. 2. Section 1136 of the Harbors and Navigation Code is amended to read:

1136. Every pilot and inland pilot licensed pursuant to this division shall do all of the following:

(a) Take an oath of office in the manner prescribed by law.

(b) Submit monthly to the board a verified account of all moneys or other compensation received by the pilot or inland pilot as a result of pilotage services, or by any other person for the pilot or inland pilot, or on the pilot's or inland pilot's account on the forms furnished by the board.

SEC. 3. Section 1159.1 is added to the Harbors and Navigation Code, to read:

1159.1. The board shall impose a board operations surcharge, the purpose of which is to fully compensate the board for its official services, for the services of its staff, and for all its incidental expenses. The amount of the surcharge shall not exceed 7½ percent of all pilotage fees charged by pilots and inland pilots, unless the board establishes, with the approval of the Department of Finance, a lesser percentage. The board shall quarterly review its ongoing and anticipated expenses and adjust the surcharge to reflect any changes which have occurred since the last adjustment.

SEC. 4. Section 1163 of the Harbors and Navigation Code is amended to read:

1163. (a) (1) Each retired or disabled pilot shall receive, as a monthly pension, that amount which is one hundred ten dollars ($110) multiplied by the number of full years of service he performed as a pilot licensed under this division.

(2) A pilot who retires or becomes disabled shall not begin to receive his pension until the benefit year next following the date on which he retires or becomes disabled.

(3) No retired pilot shall receive benefits pursuant to the pension plan in any benefit year unless his resignation as an active pilot specifying a proposed date of retirement was submitted, in writing, to the board, prior to December if his retirement is to be effective the first day of the following January or prior to June if his retirement is to be effective the first day of the following July. His resignation shall become effective on either January 1 or July 1 as specified in the written resignation.

(4) If a retired or disabled pilot who is receiving a pension dies without a wife surviving him, his successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(b) (1) The widow of a deceased pilot who would be eligible for a pension pursuant to subdivision (c) of Section 1164 shall receive, as a monthly pension, three-fourths of the amount that her deceased husband would have received as a pension pursuant to this section had he lived.

(2) If a retired or disabled pilot receiving a pension dies, his widow shall continue to receive the full pension to which her deceased husband was entitled for the balance of the benefit year, after which she shall receive the amount specified in paragraph (1) of this subdivision.

(3) When a widow receiving a pension dies, her successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(c) For the purposes of the computations described in paragraph (1) of subdivision (a), six months or more of service by a pilot shall be considered a full year.

SEC. 5. Section 1171.5 of the Harbors and Navigation Code is amended to read:

1171.5. (a) The board shall adopt, by regulation, licensing standards which shall be equal to, or exceed, standards for obtaining federal endorsements and which shall conform with and support the state policy specified in Sections 1100 and 1101.

(b) The board shall adopt reasonable rules and regulations which require pilots to be qualified to perform all pilot duties.

(c) The board shall adopt training standards and a training program for pilots, inland pilots, and pilot trainees. In the case of pilot trainees, the training program shall be for a minimum of one year and a maximum of three years. In the case of pilots and inland pilots, the board shall specify the type, nature, duration, and frequency of the training required and the identity of the pilots or inland pilots who are required to undergo training in the next 12-month period. Pursuant to Section 1182, the license of a pilot or inland pilot may be revoked or suspended if he or she fails to complete the training required by this subdivision during the period specified.

(d) The board shall establish a pilot evaluation committee consisting of five active pilots who each have at least 10 years' experience as a pilot on the Bays of San Francisco, San Pablo, and Suisun. The board shall select the members of the pilot evaluation committee. A member may not serve for more than two four-year terms, except that two of the initial members appointed to the pilot evaluation committee shall serve terms of two years.

(e) The pilot evaluation committee shall conduct and supervise the pilot training programs pursuant to the direction and regulation of the board and consistent with the intent of this division.

(f) The board shall issue a certificate of completion to each pilot trainee who satisfactorily completes the training program. The board shall not issue a pilot's license to any person who does not receive a certificate of completion of the training program by the board, although the board may refuse to issue a pilot license to a pilot trainee who has received this certificate.

(g) The training program for pilots, inland pilots, and pilot trainees shall be funded from the Board of Pilot Commissioners Special Fund pursuant to Section 1159.

SEC. 6. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. (a) Every vessel spoken inward or outward bound, shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Seven dollars and thirty-five cents ($7.35) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 50.19 mills ($0.05019) per high gross registered ton.

(2) A minimum charge for bar pilotage shall be six hundred dollars ($600) for each vessel piloted.

(3) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a

pilotage which passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Southern Pacific Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Southern Pacific Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate established in paragraph (1) of subdivision (a) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the rates charged by inland pilots for their services.

(d) The board shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the board.

SEC. 7. Section 1195 of the Harbors and Navigation Code is amended to read:

1195. (a) In addition to other fees for pilotage, there shall be a surcharge in an amount established by the board for each movement of a vessel using pilot services for each pilot trainee who is enrolled in the pilot trainee training program established by the board.

(b) The moneys charged and collected each month from the pilot trainee surcharge shall be paid to the board. The moneys shall be used only to fund the pilot trainee training program in the manner established by the board.

(c) By action of the board, the board may adjust the amount established pursuant to subdivision (a) as necessary to efficiently administer the pilot trainee training program.

SEC. 8. Section 1196 is added to the Harbors and Navigation Code, to read:

1196. (a) In addition to other fees for pilotage, there shall be a surcharge in an amount established by the board for each movement of a vessel using pilot services for the pilot and inland pilot training program established by the board.

(b) The moneys charged and collected each month from the pilot and inland pilot training program surcharge shall be paid to the board. The moneys shall be used only to fund the pilot and inland pilot training program in the manner established by the board.

(c) By action of the board, the board may adjust the amount established pursuant to subdivision (a) as necessary to efficiently administer the pilot and inland pilot training program.

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 provide the board with sufficient funding and authorization to immediately commence an ongoing training program for existing pilots and inland pilots, to adjust the purchasing power of pension benefits, and to ensure that the Board of Pilot Commissioners for San Francisco, San Pablo, and Suisun Bays is properly compensated for its costs of operation, it is necessary that this act take effect immediately.

CHAPTER 469

An act to amend Section 7887 of the Business and Professions Code, relating to geologists and geophysicists, and making an appropriation therefor.

[Approved by Governor August 7, 1990. Filed with Secretary of State August 8, 1990.]

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

SECTION 1. Section 7887 of the Business and Professions Code is amended to read:

7887. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for registration as a geologist or a geophysicist or as a specialty geologist or a specialty geophysicist at not more than one hundred dollars ($100).

(b) The registration fee for a geologist or for a geophysicist and the fee for the certification in a specialty shall be fixed at an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, with respect to certificates which will expire less than one year after issuance, the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

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

(d) The temporary registration fee for a geologist or for a geophysicist at not more than eighty dollars ($80).

(e) The renewal fee for a geologist or for a geophysicist shall be fixed by the board at not more than two hundred dollars ($200).

(f) The renewal fee for a specialty geologist or for a specialty geophysicist at not more than fifty dollars ($50).

(g) Notwithstanding Section 163.5, the delinquency fee for a certificate is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date.

(h) The fees fixed by the board pursuant to subdivisions (a), (e), and (f), as of January 1, 1993, shall not be increased.

SEC. 2. The State Board of Registration for Geologists and Geophysicists shall report to the Legislature on or before June 30, 1992, on any fee increase adopted by the board pursuant to this act, including the amount of the increase, the amount of revenue generated by the increase, the impact of the additional revenue on the board's fund condition and the reasons for which the additional revenue was sought, and the programs expected to be implemented or augmented with the increased revenue. The board shall submit a copy of the report to the Joint Legislative Budget Committee, which

report shall include any and all enforcement history covering the number and types of disciplinary actions and license revocations performed by the board.

CHAPTER 470

An act relating to juvenile facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 7, 1990. Filed with Secretary of State August 8, 1990.]

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

SECTION 1. The sum of twenty-four million three hundred seventy-five thousand dollars ($24,375,000) is hereby appropriated from the County Correctional Facility Capital Expenditure and Youth Facility Bond Fund to the Department of the Youth Authority for expenditure without regard to fiscal year to make awards to public or private nonprofit agencies, or joint ventures, for the purpose of acquiring, renovating, constructing, and purchasing equipment for youth centers or youth shelters pursuant to Section 4496.12 of the Penal Code. The allocation of these awards shall be based in part on any data regarding currently available facilities, and the need for additional facilities, which has been collected in conjunction with the preliminary needs assessment required pursuant to Section 2023 of the Welfare and Institutions Code. Expenditure of these funds shall be made in accordance with the requirements set forth in Section 4496.12 of the Penal Code and Sections 2000 to 2022, inclusive, of the Welfare and Institutions Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to award urgently needed funds from the County Correctional Facility Expenditure and Youth Facility Bond Fund, it is necessary that this act take effect immediately.

CHAPTER 471

An act to amend Section 19620 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 7, 1990. Filed with Secretary of State August 8, 1990.]

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

SECTION 1. 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 sixty-three hundreths of 1 percent of the gross amount of money handled in the annual parimutuel pool generated within this state, or the maximum amount received by the state from the parimutuel pool of a racing meeting held in this state, whichever is less, shall be paid into the State Treasury to the credit of the Fair and Exposition Fund. Commencing July 1, 1989, if the revenues paid into the Fair and Exposition Fund under this section are in excess of thirteen million dollars ($13,000,000) in any fiscal year, one-half of the amount in excess of the thirteen million dollars ($13,000,000) shall be transferred to the General 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. 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 this act may take effect and apply during the 1989-90 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 472

An act to amend Sections 13365, 40509, and 40509.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 7, 1990 Filed with Secretary of State August 8, 1990]

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

SECTION 1. Section 13365 of the Vehicle Code is amended to read:

13365. (a) Upon receipt of notification of a violation of subdivision (a) or (b) of Section 40508 or of a court order issued pursuant to subdivision (a) of Section 42003, the department shall take the following action:

(1) If the notice is given pursuant to subdivision (a) or (b) of Section 40509, if the driving record of the person who is the subject of the notice contains one or more prior notifications of a violation issued pursuant to Section 40509 or 40509.5, and if the person's driving privilege is not currently suspended under this section, the department shall suspend the driving privilege of the person.

(2) If the notice is given pursuant to subdivision (a) or (b) of Section 40509.5, and if the driving privilege of the person who is the subject of the notice is not currently suspended under this section, the department shall suspend the driving privilege of the person.

(b) A suspension under this section shall not be effective before a date 60 days after the date of receipt, by the department, of the notice given specified in subdivision (a), and the notice of suspension shall not be mailed by the department before a date 30 days after receipt of the notice given specified in subdivision (a).

The suspension shall continue until the suspended person's driving record does not contain any notification of a violation of subdivision (a) or (b) of Section 40508 or of a court order issued pursuant to subdivision (a) of Section 42003.

SEC. 2. Section 40509 of the Vehicle Code is amended to read:

40509. (a) Whenever any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court, the magistrate or clerk of the court may give notice of the fact to the department for any violation of this code, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the

department a certificate to that effect.

(b) Whenever any person has for a period of 15 or more days willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department for any violation, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. Whenever thereafter the fine is fully paid, the magistrate or clerk of the court shall issue and file with the department a certificate showing that the fine has been paid.

(c) This section is applicable to any court which has not elected to be subject to the notice requirements of subdivision (c) of Section 40509.5.

(d) Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

SEC. 3. Section 40509.5 of the Vehicle Code is amended to read:

40509.5. (a) Whenever, with respect to an offense described in subdivision (d), any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court, the magistrate or clerk of the court may give notice of the fact to the department for any violation of this code, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) Whenever, with respect to an offense described in subdivision (d), any person has for a period of 15 or more days willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department for any violation, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. Whenever thereafter the fine is fully paid, the magistrate or clerk of the court shall issue and file with the department a certificate showing that the fine has been paid.

(c) The court shall mail a courtesy warning notice to the defendant by first-class mail at the address shown on the notice to appear, at least 10 days before sending a notice to the department under this section.

(d) If the court notifies the department of a failure to appear or pay a fine pursuant to this section, no arrest warrant shall be issued

for an alleged violation of subdivision (a) or (b) of Section 40508 or of a court order issued pursuant to subdivision (a) of Section 42003, unless one of the following criteria is met:

(1) The alleged underlying offense is a misdemeanor or felony.

(2) The alleged underlying offense is a violation of any provision of Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), or Division 15 (commencing with Section 35000), required to be reported pursuant to Section 1803.

(3) The driver's record does not show that the defendant has a valid California driver's license.

(4) The driver's record shows an unresolved charge that the defendant is in violation of his or her written promise to appear for one or more other alleged violations of the law.

(e) This section is applicable to courts which have elected to provide notice pursuant to subdivision (c). The method of commencing or terminating an election to proceed under this section shall be prescribed by the department.

(f) Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

CHAPTER 473

An act to add Section 6013.6 to the Business and Professions Code, relating to attorneys, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 7, 1990 Filed with Secretary of State August 8, 1990]

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

SECTION 1. Section 6013.6 is added to the Business and Professions Code, to read:

6013.6. (a) Except as provided in subdivision (b), any full-time employee of any public agency who serves as a member of the Board of Governors of State Bar of California shall not suffer any loss of rights, promotions, salary increases, retirement benefits, tenure, or other job-related benefits, which he or she would otherwise have been entitled to receive.

(b) Notwithstanding the provisions of subdivision (a), any public agency which employs a person who serves as a member of the Board of Governors of the State Bar of California may reduce the employee's salary, but no other right or job-related benefit, pro rata to the extent that the employee does not work the number of hours required by statute or written regulation to be worked by other employees of the same grade in any particular pay period and the employee does not claim available leave time. The employee shall be

afforded the opportunity to perform job duties during other than regular working hours if such a work arrangement is practical and would not be a burden to the public agency.

(c) The Legislature finds that service as a member of the Board of Governors of the State Bar of California by a person employed by a public agency is in the public interest.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California 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 to avoid any chilling effect on potential candidates for the Board of Governors of the State Bar of California, it is necessary for this bill to take effect immediately.

CHAPTER 474

An act to amend Sections 2813 and 2814 of the Public Resources Code, relating to earthquake preparedness.

[Approved by Governor August 7, 1990. Filed with Secretary of State August 8, 1990]

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, 1995, 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, Imperial, and Santa Barbara.

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, Imperial, and Santa Barbara.

CHAPTER 475

An act to amend Section 19510 of the Business and Professions Code, relating to horseracing.

[Approved by Governor August 7, 1990 Filed with Secretary of State August 8, 1990.]

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

SECTION 1. Section 19510 of the Business and Professions Code is amended to read:

19510. Every person not required to be licensed under Article 4 (commencing with Section 19480) who participates in, or has anything to do with, the racing of horses, including a horse owner, jockey, driver, apprentice, exercise boy, agent, trainer, observer, stable foreman, groom, valet, veterinarian, horseshoer, steward, stable watchman, starter, timer, judge, any other person acting as an official at any horseracing meeting, and every employee of a parimutuel department, shall be licensed by the board pursuant to such rules and regulations as the board may adopt, and upon the payment of a license fee as prescribed by the board. Any license issued pursuant to this section shall include a current photograph of the licensed person.

No person required to be licensed by this section may participate in any capacity in any horserace meeting without a valid and unrevoked license authorizing the participation.

CHAPTER 476

An act to amend Section 62581 of the Food and Agricultural Code, relating to milk.

[Approved by Governor August 7, 1990. Filed with Secretary of State August 8, 1990.]

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

SECTION 1. Section 62581 of the Food and Agricultural Code is amended to read:

62581. Only shipments which occur during the first 35 days from the date of the earliest shipment for which a producer has not been paid are eligible.

CHAPTER 477

An act to amend Section 13510 of the Penal Code, relating to peace officers.

[Approved by Governor August 7, 1990. Filed with Secretary of State August 8, 1990]

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

SECTION 1. Section 13510 of the Penal Code is amended to read:

13510. (a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness which shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals of a municipal court, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, or peace officer members of a district, in any city, county, city and county, or district receiving state aid pursuant to this chapter, and shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals of a municipal court, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer

members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, and peace officer members of a district which shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards to include vision, hearing, physical ability, and emotional stability. Job-related standards which are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility for providing dispatching services for local law enforcement agencies described in subdivision (a), which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. These standards also shall apply to consolidated dispatch centers operated by an independent public joint powers agency established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when providing dispatch services to the law enforcement personnel listed in subdivision (a). Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this section, "primary responsibility" refers to the performance of law enforcement dispatching duties for a minimum of 50 percent of the time worked within a pay period.

(d) Nothing in this section shall prohibit a local agency from establishing selection and training standards which exceed the minimum standards established by the commission.

CHAPTER 478

An act to amend Sections 1798.9, 1798.10, and 1798.11 of the Civil Code, to amend Sections 7299.4, 7299.6, 18703, 18804, 18932, 19140, 19242, 19242.2, 19244, 19251.5, 19587, 19635, and 19700 of, to add Section 19242.1 to, and to repeal Section 18707.5 of, the Government Code, and to amend Section 139.5 of the Labor Code, relating to state government.

[Approved by Governor August 7, 1990 Filed with Secretary of State August 8, 1990]

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

SECTION 1. Section 1798.9 of the Civil Code is amended to read:

1798.9. Each agency maintaining a system of records containing personal information shall file with the Office of Information Practices the notice specified in Section 1798.10. The notices shall be filed with that office by the agencies on March 31 of each year. The notices shall be retained by the originating agency and the office until superseded or until after the record system to which the notice applies is abolished. That portion of the notices specified in subdivisions (a) and (b) of Section 1798.10 shall serve as the public directory to agency records containing personal information. The Office of Information Practices shall prescribe the form for filing and method of updating the notices required by Section 1798.10 to implement this section.

SEC. 2. Section 1798.10 of the Civil Code is amended to read:

1798.10. Notices required to be filed by Section 1798.9 shall specify each of the following:

(a) An index or list showing each record system by name or title.

(b) The procedures to be followed for an individual to gain access to, and contest the contents of, records containing personal information. The procedures shall include the name or title and business address of the agency's designated contact person for each record system.

(c) Each known instance during the reporting period in which personal information has been distributed by the agency or obtained by any person in a manner not in accord with law.

(d) Each known instance during the reporting period where access to records requested under this chapter or the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, has been denied, and each known instance of delay in providing access to, or copies of, records beyond the statutory limits imposed by the applicable provisions of this chapter or the California Public Records Act, and the statutory basis or other reasons therefor.

If an agency fails to file such a report, the office promptly shall inform the agency and if the agency fails to comply within 30 days

thereafter, the office shall report the failure as a violation in its annual report to the Legislature pursuant to Section 1798.11.

In addition, upon the request of an individual who is identified in a record system, or upon the request of the Office of Information Practices, an agency shall, with respect to any personal information in the record system, explain the authority and purpose for maintaining the information, the routine or probable disclosures of the information, and the retention and disposal policies pertaining to the information.

SEC. 3. Section 1798.11 of the Civil Code is amended to read:

1798.11. The Office of Information Practices shall, on or before June 30, 1988, and annually thereafter, transmit a report to the Legislature regarding the compliance of state agencies with the provisions of this chapter and the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and recommendations for legislation to improve state agencies' compliance with these acts.

SEC. 4. Section 7299.4 of the Government Code is amended to read:

7299.4. Each state agency shall conduct a survey of each of its local offices every two years to determine all of the following:

(a) The number of public contact positions in each local office.

(b) The number of bilingual employees in public contact positions, and the languages they speak, other than English.

(c) The number and percentage of non-English-speaking people served by each local office, broken down by native language.

(d) The number of anticipated vacancies in public contact positions.

(e) Any other relevant information requested by the State Personnel Board.

Each agency shall calculate the percentage of non-English-speaking people served by each local office by rounding the percentage arrived at to the nearest whole percentage point.

The survey results shall be reported on forms provided by the State Personnel Board, and delivered to the board not later than March 31 of every even-numbered year beginning with 1992.

SEC. 5. Section 7299.6 of the Government Code is amended to read:

7299.6. The results of the survey required to be made by Section 7299.4, along with each agency's plan to comply fully with the requirements of this chapter no later than January 1, 1979, shall be delivered to the State Personnel Board no later than March 31 of every even-numbered year and shall be included in the board's report to the Legislature every two years, pursuant to Section 7299.4.

SEC. 6. Section 18703 of the Government Code is amended to read:

18703. The board shall provide for dismissals, demotions, suspensions, and other adverse action for or in the state civil service in accordance with Article VII of the Constitution and this part.

SEC. 7. Section 18707.5 of the Government Code is repealed.

SEC. 8. Section 18804 of the Government Code is amended to read:

18804. Upon the reallocation of a position, other than by action of the board under Section 18802, the incumbent of the position shall not thereby gain status in the new class. Change in status of the incumbent may be accomplished only in accordance with the appropriate sections of this part and board rules relating to transfer, demotion or promotion.

SEC. 9. Section 18932 of the Government Code is amended to read:

18932. The board shall not establish any minimum or maximum age limits for any civil service examination, except in the cases of positions involving public health or safety or having the powers and duties of a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, and for trainee positions the board may establish minimum and maximum age limits.

The board, for positions involving public safety or having the powers and duties of a peace officer, shall adopt maximum age limitations for any civil service examination where it can be demonstrated that the age limitation in question is a "bona fide occupational qualification" as provided by the Federal Age Discrimination in Employment Act of 1967 (29 U.S.C. Secs. 621 et seq.). The board shall waive those age limits for persons competing in examinations on a promotional basis.

Any person possessing all the minimum qualifications for any state position is eligible, regardless of his or her age, to take any civil service examination given for that position, except as provided in this section.

SEC. 10. Section 19140 of the Government Code is amended to read:

19140. (a) In addition to reinstatement required under any other section, an appointing power may, in his or her discretion, reinstate any person having probationary or permanent status who was separated from his or her position (1) by resignation, (2) by service retirement, (3) by termination from limited-term, temporary, career executive assignment, or exempt appointment, (4) under Section 19996.2, or (5) without a break in continuity of state service to accept another civil service or exempt appointment. In addition, an employee who was separated from his or her position under Section 19585 shall have permissive reinstatement eligibility to that position when he or she again meets the requirements for continuing employment in that position, and shall have permissive reinstatement eligibility for any other position as provided by this section.

(b) Reinstatement shall be undertaken subject to board rule.

(c) Reinstatement shall be undertaken within three years if the employee, at the time of separation, was a member of the California Highway Patrol.

(d) For reinstatement after separation, for members of the California Highway Patrol, the time spent in any of the following positions shall not be considered in computing the three-year period:

(1) In a position which is exempt from civil service.

(2) As a temporary employee in another governmental agency engaged in a technical cooperation program under an agreement approved by the state.

(3) In a recognized military service.

(e) A member of the California Highway Patrol separated from state service may be reinstated to an otherwise appropriate nonmember class even if the separation exceeds three years.

(f) Reinstatement shall be made to any of the following vacant positions:

(1) The class vacated or from which separated.

(2) A lower class in the same series.

(3) Another class to which the employee could transfer or demote in accordance with board rule.

An employee, including a member of the California Highway Patrol, separated from his or her former position in state service by layoff, or by resignation or demotion in lieu of layoff, may be reinstated at the discretion of the appointing power. However, the reinstatement is subject to the requirements of this section and shall not be to a position that is specifically subject to the employee's reemployment list eligibility.

SEC. 11. Section 19242 of the Government Code is amended to read:

19242. The board or its designee shall conduct competitive examinations to determine the qualifications and readiness of persons with disabilities for state employment. The examinations may include an on the-job-performance evaluation and any other selection techniques deemed appropriate by the board. Examination results may be ranked or unranked.

SEC. 12. Section 19242.1 is added to the Government Code, to read:

19242.1. An appointment to a position for the purpose of completing a job performance evaluation shall be known as an examination appointment.

SEC. 13. Section 19242.2 of the Government Code is amended to read:

19242.2. The board or its designee shall refer the names of persons with disabilities who meet eligibility criteria for participation and the minimum qualifications of the job classification and any other requirements deemed appropriate by the board to appointing powers for examination appointments. Notwithstanding any other provision of law, and to provide for appropriate job-person placement, all candidates meeting referral requirements shall be eligible for examination appointment. The board shall prescribe by rule the method for referring names to appointing powers.

SEC. 14. Section 19244 of the Government Code is amended to

read:

19244. Applicants for and candidates in the Limited Examination and Appointment Program examination process may appeal in accordance with board rule any of the following actions:

(a) A refusal to certify eligibility to participate in the program.

(b) A rejection of an application to participate in an examination.

(c) A disqualification by an interview panel or by any other selection method used.

(d) A denial of a request for reasonable accommodation during the job examination period.

(e) A termination of an appointment of a candidate during a job examination period.

SEC. 15. Section 19251.5 of the Government Code is amended to read:

19251.5. All state employees and employees of the University of California and the California State University shall have the right to communicate with Members and employees of the Legislature.

A state employee, employee of the University of California, or employee of the California State University may raise as a defense, at an adverse action hearing, the right to communicate with Members and employees of the Legislature as provided for in this section whenever he or she believes that the basis for that adverse action is retaliation for that communication.

SEC. 16. Section 19587 of the Government Code is amended to read:

19587. If the petition for rehearing is granted, the matter shall be set down for rehearing by the board or its authorized representative. If the matter is set for hearing before an authorized representative, the hearing shall be conducted as to the matters on which granted in substantially the same manner and under like rules of procedure as an original hearing upon charges under this article. If the matter is set for hearing before the board itself, the board may provide the parties with an opportunity to provide written or oral argument and may decide the case upon the record, including the transcript, with or without taking additional evidence.

SEC. 17. Section 19635 of the Government Code is amended to read:

19635. No adverse action shall be valid against any state employee for any cause for discipline based on any civil service law of this state, unless notice of the adverse action is served within three years after the cause for discipline, upon which the notice is based, first arose. Adverse action based on fraud, embezzlement, or the falsification of records shall be valid, if notice of the adverse action is served within three years after the discovery of the fraud, embezzlement, or falsification.

SEC. 18. Section 19700 of the Government Code is amended to read:

19700. The board, its executive officer, or any appointing power shall not adopt any rule, either written or unwritten, prohibiting the

employment of any person in any state position who is otherwise qualified therefor, solely because of his or her age, except as provided in Section 18932.

SEC. 19. Section 139.5 of the Labor Code is amended to read:

139.5. (a) The administrative director shall establish within the Office of Benefit Determination a vocational rehabilitation unit, which shall include appropriate professional staff, and which shall have the following duties:

(1) To foster, review, and approve vocational rehabilitation plans developed by a qualified rehabilitation representative of the employer, insurer, state agency, or employee.

(2) To develop rules and regulations, to be promulgated by the administrative director, which would expedite and facilitate the identification, notification, and referral of industrially injured employees to vocational rehabilitation services.

(3) To coordinate and enforce the implementation of vocational rehabilitation plans.

(4) To develop a fee schedule, to be promulgated by the administrative director, governing reasonable fees for vocational rehabilitation services. The initial fee schedule promulgated under this paragraph shall be designed to reduce the cost of vocational rehabilitation services by 10 percent.

(5) To develop standards, to be promulgated by the administrative director, for governing the timeliness and the quality of vocational rehabilitation services.

(b) The salaries of the personnel of the vocational rehabilitation unit shall be fixed by the Department of Personnel Administration.

(c) When an employee is determined to be medically eligible and chooses to enroll in a vocational rehabilitation program, he or she shall continue to receive temporary disability indemnity payments, and, after his or her medical condition becomes permanent and stationary, a maintenance allowance. The employee also shall receive living expenses necessitated by the vocational rehabilitation services, together with all reasonable and necessary vocational training, at the expense of the employer.

(d) The amount of the maintenance allowance due under subdivision (c) shall be two-thirds of the employee's average weekly earnings at the date of injury payable as follows:

(1) The amount the employee would have received as continuing temporary disability indemnity, but not more than two hundred forty-six dollars ($246) a week for injuries occurring on or after January 1, 1990.

(2) At the employee's option, an additional amount from permanent disability indemnity due or payable, sufficient to provide the employee with a maintenance allowance equal to two-thirds of the employee's average weekly earnings at the date of injury subject to the limits specified in subdivision (a) of Section 4453 and the requirements of Section 4661.5. In no event shall temporary disability indemnity and a maintenance allowance be payable concurrently.

If the employer disputes the treating physician's determination of medical eligibility, the employee shall continue to receive that portion of the maintenance allowance payable under paragraph (1) pending final determination of the dispute. If the employee disputes the treating physician's determination of medical eligibility and prevails, the employee shall be entitled to that portion of the maintenance allowance payable under paragraph (1) retroactive to the date of the employee's request for vocational rehabilitation services.

(e) No provision of this section nor of any rule, regulation, or vocational rehabilitation plan developed or promulgated under this section nor any benefit provided pursuant to this section shall apply to an injured employee whose injury occurred prior to January 1, 1975. Nothing in this section shall affect any plan, benefit, or program authorized by this section as added by Chapter 1513 of the Statutes of 1965 or as amended by Chapter 83 of the Statutes of 1972.

(f) The time within which an employee may request vocational rehabilitation services is set forth in Sections 5405.5, 5410, and 5803.

CHAPTER 479

An act to amend Section 960.3 of the Government Code, relating to claims.

[Approved by Governor August 7, 1990. Filed with Secretary of State August 8, 1990.]

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

SECTION 1. Section 960.3 of the Government Code is amended to read:

960.3. (a) If it is shown by affidavit to the satisfaction of the court or judge that the circumstances required by Section 960.2 exist, the court or judge may make an order that service of process be made upon the public agency as provided in this section.

(b) Service of process shall be made by:

(1) Leaving two copies of the process for each public agency defendant to be served, together with two copies of the order authorizing the service, in the hands of the Secretary of State or in his or her office at Sacramento; or

(2) Mailing two copies of the process for each public agency defendant to be served, together with two copies of the order authorizing the service, to the office of the Secretary of State in Sacramento by certified or registered mail, addressee only, return receipt requested. Service shall be effective as of the day the return receipt is received from the office of the Secretary of State.

(c) Service in this manner constitutes personal service upon the public agency.

(d) A fee of fifty dollars ($50) shall be paid by the plaintiff to the Secretary of State for each public agency on which service is made in this manner.

CHAPTER 480

An act to add Section 13519.4 to the Penal Code, relating to peace officers.

[Approved by Governor August 7, 1990. Filed with Secretary of State August 8, 1990.]

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

SECTION 1. Section 13519.4 is added to the Penal Code, to read:

13519.4. Effective July 1, 1991, the commission shall develop and disseminate guidelines and training for all law enforcement officers in California as described in subdivision (a) of Section 13510 and who adhere to the standards approved by the commission, on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines shall stress understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

CHAPTER 481

An act to amend Section 10751 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 7, 1990. Filed with Secretary of State August 8, 1990.]

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

SECTION 1. Section 10751 of the Vehicle Code is amended to read:

10751. (a) No person shall knowingly buy, sell, offer for sale, receive, or have in his possession, any vehicle, or component part thereof, from which the manufacturer's serial or identification number has been removed, defaced, altered, or destroyed, unless the vehicle or component part has attached thereto an identification number assigned or approved by the department in lieu of the manufacturer's number.

(b) Whenever a vehicle or component part described in subdivision (a) comes into the custody of a peace officer, it shall be destroyed, sold, or otherwise disposed of under the conditions as

provided in an order by the court having jurisdiction. No court order providing for disposition shall be issued, unless the person from whom the property was seized and all claimants to the property whose interest or title is on registration records in the Department of Motor Vehicles are provided a postseizure hearing by the court having jurisdiction within 90 days after the seizure. This subdivision shall not apply with respect to a seized vehicle or component part used as evidence in any criminal action or proceeding. Nothing in this section shall, however, preclude the return of a seized vehicle or component part to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, upon the assignment of an identification number to the vehicle or component part by the department.

(c) Whenever a vehicle or component part described in subdivision (a) comes into the custody of a peace officer, the person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the Department of Motor Vehicles, shall be notified within five days, excluding Saturdays, Sundays, and holidays, after the seizure, of the date, time, and place of the hearing required in subdivision (b). The notice shall contain the information specified in subdivision (d).

(d) Whenever a peace officer seizes a vehicle or component part as provided in subdivision (b), the person from whom the property was seized shall be provided a notice of impoundment of the vehicle or component part which shall serve as a receipt and contain the following information:

(1) Name and address of person from whom the property was seized.

(2) A statement that the vehicle or component part seized has been impounded for investigation of a violation of Section 10751 of the California Vehicle Code and that the property will be released upon a determination that the identification number has not been removed, defaced, altered, or destroyed, or upon the presentation of satisfactory evidence of ownership of the vehicle or component part, provided that no other person claims an interest in the property; otherwise, a hearing regarding the disposition of the vehicle or component part shall take place in the proper court.

(3) A statement that the person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the Department of Motor Vehicles, will receive written notification of the date, time, and place of the hearing within five days, excluding Saturdays, Sundays, and holidays, after the seizure.

(4) Name and address of the law enforcement agency where evidence of ownership of the vehicle or component part may be presented.

(5) A statement of the contents of Section 10751 of the Vehicle Code.

(e) A hearing on the disposition of the property shall be held by

the municipal or justice court within 90 days after the seizure. The hearing shall be before the court without a jury.

(1) If the evidence reveals either that the identification number has not been removed, altered, or destroyed or that the identification number has been removed, altered, or destroyed but satisfactory evidence of ownership has been presented to the seizing agency or court, the property shall be released to the person entitled thereto. Nothing in this section shall preclude the return of the vehicle or component part to a good faith purchaser following presentation of satisfactory evidence of ownership thereof upon the assignment of an identification number to the vehicle or component part by the department.

(2) If the evidence reveals that the identification number has been removed, altered, or destroyed, and satisfactory evidence of ownership has not been presented, the property shall be destroyed, sold, or otherwise disposed of as provided by court order.

(3) At the hearing, the seizing agency shall have the burden of establishing that the identification number has been removed, defaced, altered, or destroyed and that no satisfactory evidence of ownership has been presented.

(f) This section shall not apply to a scrap metal processor engaged primarily in the acquisition, processing, and shipment of ferrous and nonferrous scrap, and who receives dismantled vehicles from licensed dismantlers, licensed junk collectors, or licensed junk dealers as scrap metal for the purpose of recycling the dismantled vehicles for their metallic content, the end product of which is the production of material for recycling and remelting purposes for steel mills, foundries, smelters, and refiners.

CHAPTER 482

An act to amend Section 800 of the Welfare and Institutions Code, relating to juvenile court proceedings.

[Approved by Governor August 8, 1990. Filed with Secretary of State August 9, 1990]

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

SECTION 1. Section 800 of the Welfare and Institutions Code is amended to read:

800. A judgment in a proceeding under Section 601 or 602 may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment. Pending appeal of the order or judgment, the granting or refusal to order release shall rest in the discretion of the juvenile court. The appeal shall have precedence over all other cases in the court to which the appeal is taken.

A ruling on a motion to suppress pursuant to Section 700.1 shall be reviewed on appeal even if the judgment is predicated upon an admission of the allegations of the petition or even if the judgment is a dismissal of the petition or any count or counts thereof; however, no appeal by the people shall lie as to any count which, if the people are successful, will be the basis for further proceedings subjecting any person to double jeopardy in violation of the State or Federal Constitution.

A judgment or subsequent order entered by a referee shall become appealable whenever proceedings pursuant to Section 252, 253, or 254 have become completed or, if proceedings pursuant to Section 252, 253, or 254 are not initiated, when the time for initiating the proceedings has expired.

An appellant unable to afford counsel, shall be provided a free copy of the transcript in any appeal.

The record shall be prepared and transmitted immediately after filing of the notice of appeal, without advance payment of fees. If the appellant is able to afford counsel, the county may seek reimbursement for the cost of the transcripts under subdivision (c) of Section 68511.3 of the Government Code as though the appellant had been granted permission to proceed in forma pauperis.

All appeals shall be initiated by the filing of notice of appeal in conformity with the requirements of Section 1240.1 of the Penal Code.

CHAPTER 483

An act to amend Sections 6148, 6200, 6201, and 6203 of, to add Section 6086.7 to, and to repeal Sections 6086.7 and 6089 of, the Business and Professions Code, relating to attorneys.

[Approved by Governor August 8, 1990 Filed with Secretary of State August 9, 1990]

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

SECTION 1. Section 6086.7 of the Business and Professions Code is repealed.

SEC. 2. Section 6086.7 is added to the Business and Professions Code, to read:

6086.7. A court shall notify the State Bar of any of the following:

(a) A final order of contempt imposed against an attorney that may involve grounds warranting discipline under this chapter. The court entering the final order shall transmit to the State Bar a copy of the relevant minutes, final order, and transcript, if one exists.

(b) Whenever a modification or reversal of a judgment in a judicial proceeding is based in whole or in part on the misconduct, incompetent representation, or willful misrepresentation of an

attorney.

(c) The imposition of any judicial sanctions against an attorney, except sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars ($1,000).

In the event of a notification made under subdivision (a), (b), or (c), the court shall also notify the attorney involved that the matter has been referred to the State Bar.

The State Bar shall investigate any matter reported under this section as to the appropriateness of initiating disciplinary action against the attorney.

SEC. 3. Section 6089 of the Business and Professions Code is repealed.

SEC. 4. Section 6148 of the Business and Professions Code is amended to read:

6148. (a) In any case not coming within Section 6147 in which it is reasonably foreseeable that total expense to a client, including attorney fees will exceed one thousand dollars ($1,000), the contract for services in the case shall be in writing and shall contain all of the following:

(1) The hourly rate and other standard rates, fees, and charges applicable to the case.

(2) The general nature of the legal services to be provided to the client.

(3) The respective responsibilities of the attorney and the client as to the performance of the contract.

(b) All bills rendered by an attorney to a client shall clearly state the basis thereof. Bills for the fee portion of the bill shall include the amount, rate, basis for calculation, or other method of determination of the attorney's fees and costs. Bills for the cost and expense portion of the bill shall clearly identify the costs and expenses incurred and the amount of the costs and expenses. Upon request by the client, the attorney shall provide a bill to the client no later than 10 days following the request unless the attorney has provided a bill to the client within 31 days prior to the request, in which case the attorney may provide a bill to the client no later than 31 days following the date the most recent bill was provided. The client is entitled to make similar requests at intervals of no less than 30 days following the initial request. In providing responses to client requests for billing information, the attorney may use billing data that is currently effective on the date of the request, or, if any fees or costs to that date cannot be accurately determined, they shall be described and estimated.

(c) Failure to comply with any provision of this section renders the agreement voidable at the option of the client, and the attorney shall, upon the agreement being voided, be entitled to collect a reasonable fee.

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

(1) Services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the client or where a writing

is otherwise impractical.

(2) An arrangement as to the fee implied by the fact that the attorney's services are of the same general kind as previously rendered to and paid for by the client.

(3) If the client knowingly states in writing, after full disclosure of this section, that a writing concerning fees is not required.

(4) If the client is a corporation.

(e) This section applies prospectively only to fee agreements following its operative date.

SEC. 5. Section 6200 of the Business and Professions Code is amended to read:

6200. (a) The board of governors shall, by rule, establish, maintain, and administer a system and procedure for the arbitration of disputes concerning fees, costs, or both, charged for professional services by members of the State Bar or by members of the bar of other jurisdictions. The rules may include provision for a filing fee in such amount as the board may, from time to time, determine.

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

(1) Disputes where a member of the State Bar of California is also admitted to practice in another jurisdiction or where an attorney is only admitted to practice in another jurisdiction, and he or she maintains no office in the State of California, and no material portion of the services were rendered in the State of California.

(2) Claims for affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct, except as provided in subdivision (a) of Section 6203.

(3) Disputes where the fee or cost to be paid by the client or on his or her behalf has been determined pursuant to statute or court order.

(c) Arbitration under this article shall be voluntary for a client and shall be mandatory for an attorney if commenced by a client.

(d) The board of governors shall adopt rules to allow arbitration of attorney fee and cost disputes under this article to proceed under arbitration systems sponsored by local bar associations in this state. Rules of procedure promulgated by local bar associations are subject to review by the board to insure that they provide for a fair, impartial, and speedy hearing and award. In adopting or reviewing these rules, the board may provide for one lay member of any arbitration panel of three arbitrators.

(e) In any arbitration conducted pursuant to this article by the State Bar or by a local bar association, pursuant to rules of procedure approved by the board of governors, the arbitrator or arbitrators, as well as the arbitrating association and its directors, officers, and employees, shall have the same immunity which attaches in judicial proceedings.

(f) In the conduct of arbitrations under this article the arbitrator or arbitrators may do all of the following:

(1) Take and hear evidence pertaining to the proceeding.

(2) Administer oaths and affirmations.

(3) Compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the proceeding.

SEC. 6. Section 6201 of the Business and Professions Code is amended to read:

6201. (a) The rules adopted by the board of governors shall provide that, except as to an action filed in small claims court, an attorney shall forward a written notice to the client prior to or at the time of service of summons in an action against the client for recovery of fees, costs, or both, covered by the provisions of this article. The written notice shall be in such form as the board of governors may prescribe, but shall include a statement of the client's right to arbitration under this article. Failure to give this notice shall be a ground for the dismissal of the action.

The rules adopted by the board of governors shall provide that the client's failure to request arbitration within 30 days after receipt of notice from the attorney shall be deemed a waiver of the client's right to arbitration under the provisions of this article.

(b) If an attorney, or the attorney's assignee, subject to the provisions of this article, commences an action in any court, other than a small claims court, and the dispute is not one to which subdivision (b) of Section 6200 applies, the client may stay the action by serving and filing a request for arbitration in accordance with the rules established by the board of governors pursuant to subdivision (a) of Section 6200. If the attorney files an action against the client in small claims court for recovery of fees, costs, or both, covered by the provisions of this article, and the client has not filed a request for arbitration, the small claims action, including any appeal, shall not be stayed under the provisions of this section, and the matter shall not be subject to arbitration under this article while the matter is pending in small claims court or after judgment is given in that court. A small claims court action shall not be filed by the attorney after the client has filed a request for arbitration while the arbitration is pending or after the award is issued. Any such action shall be dismissed without prejudice, and the pendency of the action shall not preclude the arbitration from going forward. The request for arbitration shall be served and filed prior to the filing of an answer in the action; failure to so request arbitration prior to the filing of an answer shall be deemed a waiver of the client's right to arbitration under the provisions of this article if notice of the client's right to arbitration was given pursuant to subdivision (a).

(c) Upon filing and service of the request for arbitration, the action shall be stayed, without the necessity of court order, until the award of the arbitrators is issued or the arbitration is otherwise terminated, and the time of the continuance of the stay shall not be part of the time limited for the commencement of the action. The stay may be vacated in whole or in part, after a hearing duly noticed by any party or the court, if the court finds that the matter, or any part of it, is not an appropriate one for arbitration under the

provisions of this article. The action may thereafter proceed subject to the provisions of Section 6204.

(d) A client's right to request or maintain arbitration under the provisions of this article is waived by (1) the commencement of an action or the filing of any pleading by the client seeking judicial resolution of a dispute to which this article applies, or (2) seeking affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct.

SEC. 7. Section 6203 of the Business and Professions Code is amended to read:

6203. (a) The award shall be in writing and signed by the arbitrators concurring therein. It shall include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy. The award shall not include any award to either party for attorney's fees incurred, notwithstanding any contract between the parties providing for such an award or attorney's fees. However, this section shall not preclude an award of attorney's fees to either party by a court pursuant to subdivision (c) of this section or of subdivision (d) of Section 6204. The State Bar, or the local bar association delegated by the State Bar to conduct the arbitration, shall deliver to each of the parties with the award, an original declaration of service of the award.

The arbitrators may receive evidence relating to claims of malpractice and professional misconduct, but only to the extent that those claims bear upon the fees, costs, or both, to which the attorney is entitled. The arbitrators shall not award affirmative relief, in the form of damages or offset or otherwise, for injuries underlying any such claim. Nothing in this section shall be construed to prevent the arbitrators from awarding a refund of unearned prepaid fees.

(b) Even if the parties to the arbitration have not agreed in writing to be bound, the arbitration award shall become binding upon the passage of 30 days after mailing of notice of the award, unless a party has, within the 30 days, sought a trial after arbitration pursuant to Section 6204. If an action has previously been filed in any court, any petition to confirm, correct, or vacate the award shall be to the court in which the action is pending, and may be served by mail on any party who has appeared, as provided in Chapter 4 (commencing with Section 1003) of Title 14 of Part 2 of the Code of Civil Procedure; otherwise it shall be in the same manner as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure. If no action is pending in any court, the award may be confirmed, corrected, or vacated by petition to the court having jurisdiction over the amount of the arbitration award, but otherwise in the same manner as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.

(c) A court confirming, correcting, or vacating an award under this section may award to the prevailing party reasonable fees and costs including, if applicable, fees or costs on appeal, incurred in

obtaining confirmation, correction, or vacation of the award. The party obtaining judgment confirming, correcting, or vacating the award shall be the prevailing party except that, without regard to consideration of who the prevailing party may be, if a party did not appear at the arbitration hearing in the manner provided by the rules adopted by the board of governors, that party shall not be entitled to attorney's fees or costs upon confirmation, correction, or vacation of the award.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 484

An act to amend Section 5101.3 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 8, 1990. Filed with Secretary of State August 9, 1990.]

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

SECTION 1. Section 5101.3 of the Vehicle Code is amended to read:

5101.3. (a) Any person otherwise eligible under this article who qualifies under subdivision (b) may apply for special license plates which shall run in a separate numerical series and shall contain the words "Pearl Harbor Survivor." The plates may be issued for any vehicle,, except a vehicle used for transportation for hire, compensation, or profit or a motorcycle, which is owned or coowned by the person.

(b) To qualify for issuance of the special plates, the applicant shall by satisfactory proof show all of the following:

(1) The applicant was a member of the United States Armed Forces on December 7, 1941, and received an honorable discharge from military service.

(2) The applicant was on station at Pearl Harbor, the Island of Oahu, or offshore within a distance of three miles, on December 7,

1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, as certified by a California chapter of the Pearl Harbor Survivors Association.

(c) In addition to the regular registration fees, the department shall charge a fee of thirty-five dollars ($35) for the issuance of the special plates. Notwithstanding Section 9265, the applicant for a substitute Pearl Harbor Survivor license plate shall be charged a fee of thirty-five dollars ($35).

(d) Whenever any person who has been issued a Pearl Harbor Survivor license plate applies to the department for transfer of the plates to another vehicle, a transfer fee of twenty dollars ($20) shall be charged in addition to all other appropriate fees.

(e) The special plates may not be transferred to any other person, including a coowner of the vehicle for which the license plates were issued, and shall be surrendered to the department upon the decease of the person to whom they were issued.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit, as quickly as possible, eligible Pearl Harbor survivors to apply for and be issued special "Pearl Harbor Survivor" license plates for certain vehicles other than passenger vehicles, it is necessary that this act take effect immediately.

CHAPTER 485

An act to amend Section 7115 of the Business and Professions Code, to amend Section 100 of, and to repeal Section 10300 of, the Public Contract Code, relating to contractors.

[Approved by Governor August 8, 1990 Filed with Secretary of State August 9, 1990]

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

SECTION 1. Section 7115 of the Business and Professions Code is amended to read:

7115. (a) Failure in any material respect to comply with the provisions of this chapter, or any rule or regulation adopted pursuant to this chapter, or to comply with the provisions of Section 7106 of the Public Contract Code, constitutes a cause for disciplinary action.

(b) Failure of a licensee, applicant, or registrant subject to the provisions of this chapter, who without lawful excuse, delays, obstructs, or refuses to comply with a written request of the registrar or designee for information or records, to provide that information or make available those records, when the information or records are required in the attempt to discharge any duty of the registrar,

constitutes a cause for disciplinary action.

SEC. 2. Section 100 of the Public Contract Code is amended to read:

100. The Legislature finds and declares that placing all public contract law in one code will make that law clearer and easier to find. Further, it is the intent of the Legislature in enacting this code to achieve the following objectives:

(a) To clarify the law with respect to competitive bidding requirements.

(b) To ensure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds.

(c) To provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices.

(d) To eliminate favoritism, fraud, and corruption in the awarding of public contracts.

SEC. 3. Section 10300 of the Public Contract Code is repealed.

CHAPTER 486

An act to amend Section 16755 of the Business and Professions Code, relating to restraint of trade.

[Approved by Governor August 8, 1990. Filed with Secretary of State August 9, 1990]

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

SECTION 1. Section 16755 of the Business and Professions Code is amended to read:

16755. (a) Any violation of this chapter is a conspiracy against trade, and any person who engages in any such conspiracy or takes part therein, or aids or advises in its commission, or who as principal, manager, director, agent, servant or employee, or in any other capacity, knowingly carries out any of the stipulations, purposes, prices, rates, or furnishes any information to assist in carrying out such purposes, or orders thereunder or in pursuance thereof, is punishable, as follows:

(1) If the violator is a corporation, by a fine of not more than one million dollars ($1,000,000) or the applicable amount under paragraph (3), whichever is greater.

(2) If the violator is an individual, by imprisonment in a state prison for one, two, or three years, by imprisonment for not more than one year in a county jail, by a fine of not more than the greater of two hundred fifty thousand dollars ($250,000), a fine of the applicable amount under paragraph (3), or by both a fine and imprisonment.

(3) If any person derives pecuniary gain from a violation of this

chapter, or the violation results in pecuniary loss to a person other than the violator, the violator may be fined not more than an amount equal to the amount of the gross gain multiplied by two or an amount equal to the amount of the gross loss multiplied by two, whichever is applicable.

(b) Any action pursuant to this section may be commenced at any time within four years after the commission of the last act comprising a part of any violation. No cause of action barred under existing law on the effective date of the amendment of this section at the 1977–78 Regular Session of the Legislature shall be revived by such amendment.

(c) Subject to Section 13521 of the Penal Code, all moneys received by any court in payment of any fine or civil penalty imposed pursuant to this section shall, as soon as practicable after receipt thereof, be deposited with the county treasurer of the county in which the court is situated. Amounts so deposited shall be paid as soon as practicable as follows: 100 percent to the Treasurer by warrant of the county auditor drawn upon the requisition of the clerk or judge of said court to be deposited in the State Treasury on order of the Controller if the moneys received resulted from an action initiated and prosecuted by the Attorney General. If the action was initiated and prosecuted by a district attorney then 100 percent shall be paid as soon as practicable to the treasurer of the county in which the prosecution is conducted. If the action was initiated and prosecuted jointly by the Attorney General and a district attorney or jointly by more than one district attorney, such amounts shall be paid to the State Treasurer and to the treasurer(s) of the county or counties participating in the prosecution in a proportion agreed upon by the agencies jointly prosecuting such case and as approved by the court.

CHAPTER 487

An act to amend Section 14530.1 of the Government Code, relating to transportation.

[Approved by Governor August 8, 1990 Filed with Secretary of State August 9, 1990]

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

SECTION 1. Section 14530.1 of the Government Code is amended to read:

14530.1. (a) The department, in cooperation with the commission, transportation planning agencies, and county transportation commissions and local governments, shall develop guidelines for the development of the state transportation improvement program, the regional transportation improvement

program, and the incorporation of projects from the congestion management programs that are eligible for state funding into the regional transportation improvement program.

(b) The guidelines shall include, but not be limited to all of the following:

(1) Standards for project deliverability.

(2) Standards for determining the priority of projects within the county, within a region, and within a county group.

(3) Procedures for incorporating projects from the congestion management program into the regional transportation improvement program.

(4) Standards for identifying projects.

(5) Standards for cost estimating.

(6) Programming methods for increases and schedule changes.

(c) The guidelines shall be submitted to the commission by July 1, 1990. After conducting at least one hearing in northern California and one in southern California, the commission shall adopt the guidelines by September 1, 1990.

(d) The guidelines shall be the complete and full statement of the policy, standards, and criteria that the commission intends to use in selecting projects to be included in the state transportation improvement program.

(e) The commission may amend the adopted guidelines after conducting at least one public hearing. The commission shall make a reasonable effort to adopt the amended guidelines prior to its adoption of the fund estimate pursuant to Section 14525. In no event shall the adopted guidelines be amended, or otherwise revised, modified, or altered during the period commencing 30 days after the adoption of the fund estimate pursuant to Section 14525 and before the adoption of the state transportation improvement program pursuant to Section 14529.

CHAPTER 488

An act to amend Section 8610 of the Government Code, relating to disaster plans.

[Approved by Governor August 8, 1990 Filed with Secretary of State August 9, 1990]

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

SECTION 1. Section 8610 of the Government Code is amended to read:

8610. Counties, cities and counties, and cities may create disaster councils by ordinance. A disaster council shall develop plans for meeting any condition constituting a local emergency or state of emergency, including, but not limited to, earthquakes, natural or

manmade disasters specific to that jurisdication, or state of war emergency; such plans shall provide for the effective mobilization of all of the resources within the political subdivision, both public and private. The disaster council shall supply a copy of any plans developed pursuant to this section to the Office of Emergency Services. The governing body of a county, city and county, or city may, in the ordinance or by resolution adopted pursuant to the ordinance, provide for the organization, powers and duties, divisions, services, and staff of the emergency organization. The governing body of a county, city and county, or city may, by ordinance or resolution, authorize public officers, employees, and registered volunteers to command the aid of citizens when necessary in the execution of their duties during a state of war emergency, a state of emergency, or a local emergency.

Counties, cities and counties, and cities may enact ordinances and resolutions and either establish rules and regulations or authorize disaster councils to recommend to the director of the local emergency organization rules and regulations for dealing with local emergencies that can be adequately dealt with locally; and further may act to carry out mutual aid on a voluntary basis and, to this end, may enter into agreements.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 489

An act to amend Section 231 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor August 8, 1990 Filed with Secretary of State August 10, 1990]

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

SECTION 1. Section 231 of the Revenue and Taxation Code is amended to read:

231. (a) Property which is owned by a nonprofit corporation and leased to, and used exclusively by, government for its interest and benefit shall be exempt from taxation within the meaning of

"charitable purposes" in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution if:

(1) All of the provisions of Section 214 are complied with, except paragraph (6) of subdivision (a). For purposes of paragraph (6) of subdivision (a) of Section 214, irrevocable dedication to charitable purpose shall be deemed to exist if the lease provides that the property shall be transferred in fee to the entity of government leasing the same upon the sooner of either the liquidation, dissolution, or abandonment of the owner or at the time the last rental payment is made under the provisions of the lease.

(2) All of the provisions of Section 254.5 relating to owners are complied with, commencing during calendar year 1969.

(3) All of the provisions of Section 214.01 are complied with by March 15, 1970.

(b) As used in this section "property" means:

(1) Any building or structure of a kind or nature which is uniquely of a governmental character and includes, but is not limited to, the following:

(A) City halls.

(B) Courthouses.

(C) Administration buildings.

(D) Police stations, jails, or detention facilities.

(E) Fire stations.

(F) Parks, playgrounds, or golf courses.

(G) Hospitals.

(H) Water systems and waste water facilities.

(I) Toll bridges.

(2) Any other property required for the use and occupation of the buildings and leased to government.

(3) Any possessory interest of the nonprofit corporation in property and in the land upon which the property was constructed and so much of the surrounding land that is required for the use and occupation of the property.

(4) Any building and its equipment in the course of construction on or after the first Monday of March, 1954, together with the land on which it is located as may be required for the use and occupation of the building when such building and equipment is being constructed for the sole purpose of being leased to government to lessen its burden.

"Uniquely of a governmental character" means the property, except hospitals, water systems, waste water facilities, golf courses, and toll bridges, is not intended to produce income or revenue in the form of rents or admission, user or service fees, or charges.

(c) As used in this section "property" does not include any possessory interest of any person or organization not exempt from taxation.

(d) As used in this section "nonprofit corporation" means a community chest, fund, foundation or corporation, not conducted for profit, and no part of the net earnings of which inures to the benefit

of any private shareholder or individual and that nonprofit corporation is organized and operated for the sole purpose of leasing property to government and to lessen the burden of government and, in fact, only leases property to government. That nonprofit corporation shall qualify as an exempt organization either under Section 23701f or 23701u of this code or Section 501(c)(4) of the Internal Revenue Code of 1986. This subdivision is not intended to enlarge the "welfare exemption" to apply to organizations qualified under Section 501(c)(4) of the Internal Revenue Code of 1986 but not otherwise qualified for the "welfare exemption" under this section. Nonprofit corporations meeting the tests of this subdivision are deemed to be organized and operated for charitable purposes.

(e) As used in this section "government" means the State of California, a city, city and county, county, public corporation, and a hospital district.

(f) The exemption provided for in this section shall be deemed to be within the "welfare exemption" for purposes of Section 251.

(g) For leases first entered into by and between government and nonprofit corporation on or after January 1, 1969, all requirements of this section shall be met for the property and the nonprofit corporation to qualify for the exemption provided by this section.

(h) For leases first entered into by and between government and nonprofit corporation on or before December 31, 1968, all requirements of this section shall be met except that the last unnumbered paragraph of subdivision (b) shall not apply and for the purposes of subdivision (b)(1) the list of real property qualifying for this exemption includes community recreation buildings or facilities, golf courses, airports, water, sewer and drainage facilities, music centers and their related facilities, and public parking incidental to and in connection with one of the buildings or structures set forth in this section.

(i) Property exempt under this section shall be located within the boundaries of the entity of government leasing the same.

(j) Where the construction has commenced on or after January 1, 1969, improvements shall be advertised and put to competitive bid to qualify for the exemption provided by this section.

(k) For purposes of subdivision (d), a nonprofit corporation shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor duplicate copies of a valid, unrevoked letter or ruling from either the Franchise Tax Board or, in the alternative, the Internal Revenue Service, which states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section relating to any exemption of property for more than five years or for more than 75 percent of the value thereof, shall not apply to any exemptions made by this act. In addition, no appropriation is made by this act and the

state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

CHAPTER 490

An act to amend Sections 51929 and 51929.5 of, and to add Section 57079.3 to, the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 10, 1990.]

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

SECTION 1. Section 51929 of the Government Code is amended to read:

51929. Upon the ballots used at the election shall be printed the words: "Shall the city (or cities) of (naming them) and the County of Sacramento be reorganized and consolidated and shall the proposed Charter of the City-County of Sacramento be adopted as the governing law of the City-County of Sacramento?"

Opposite and to the right of these words, the words "Yes" and "No" shall be printed on separate lines, with voting squares. Each proposition separately submitted shall also be similarly presented to the electors.

SEC. 2. Section 51929.5 of the Government Code is amended to read:

51929.5. Upon the ballots used at the election within each of the other cities proposed to be reorganized and consolidated with the County of Sacramento shall also be printed the words as a separate question or proposition: "If the proposed Charter of the City-County of Sacramento is adopted as the governing law of the City-County of Sacramento, shall the City of _____ retain its local governmental structure?"

SEC. 3. Section 57079.3 is added to the Government Code, to read:

57079.3. Notwithstanding subdivision (b) of Section 57079, if a proposed reorganization includes a detachment of territory from the City-County of Sacramento where the governments of the City of Sacramento and County of Sacramento are consolidated in one city-county legislative body pursuant to Chapter 5 (commencing with Section 51900), of Part 2 of Division 1 of Title 5, the proceedings shall not terminate if the City-County of Sacramento files a written protest to a detachment from the City-County of Sacramento and simultaneous annexation to any of the Cities of Folsom, Isleton, and Galt, and if the proposed detachment and simultaneous annexation includes territory within the sphere of influence of any of the Cities of Folsom, Isleton, or Galt. "Sphere of influence" means for this

purpose, the sphere of influence, which has been approved in principle by the City-County of Sacramento by July 1, 1991, and adopted or amended by the local agency formation commission pursuant to Chapter 4 (commencing with Section 56425) of Part 4 prior to or as of July 1, 1992.

SEC. 4. Section 3 of this act applies to applications whether filed before or after the effective date of this act. It is the intent of the Legislature that the Local Agency Formation Commission shall not take final action on a proposed reorganization as set forth in Section 3 of this act before the City-County of Sacramento has expressed its approval pursuant to Section 3 of this act.

SEC. 5. The Legislature finds and declares that this act is necessary as a special law 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 present in Sacramento County due to the possibility of a consolidation of the City of Sacramento with the County of Sacramento and with any or all of the other cities located in Sacramento County.

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:

Because the effects of a consolidation of the governments of the City of Sacramento and the County of Sacramento upon proceedings for the detachment of territory from a city are unclear, it is necessary that this legislation take effect before consolidation is voted upon by the people and it is therefore necessary that this act take effect immediately.

CHAPTER 491

An act to add Part 3 (commencing with Section 11300) to Division 4 of the Business and Professions Code, and to repeal Title 4.5 (commencing with Section 1922) of Division 3 of the Civil Code, relating to appraisals, and making an appropriation therefor.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 10, 1990]

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

SECTION 1. Part 3 (commencing with Section 11300) is added to Division 4 of the Business and Professions Code, to read:

PART 3. LICENSING AND CERTIFICATION OF REAL ESTATE APPRAISERS

11300. This part may be cited as the Real Estate Appraisers'

Licensing and Certification Law.

11301. (a) There is hereby created within the Business, Transportation and Housing Agency an Office of Real Estate Appraisers to administer and enforce this part.

(b) On and after July 1, 1991, any person who engages in or proposes to engage in federally related real estate appraisal activity as defined by subdivision (k) of Section 11302 shall be licensed or certified pursuant to this part.

CHAPTER 1. DEFINITIONS

11302. For the purpose of applying this part, the following terms, unless otherwise expressly indicated, shall mean and have the following definitions:

(a) "Agency" means the Business, Transportation and Housing Agency.

(b) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion in a federally related transaction as to the market value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

The term "appraisal" does not include an opinion given by a real estate licensee or engineer or land surveyor in the ordinary course of his or her business in connection with a function for which a license is required under Chapter 7 (commencing with Section 6700) or Chapter 15 (commencing with Section 8700) of Division 3, or Chapter 3 (commencing with Section 10130) or Chapter 7 (commencing with Section 10500) and the opinion shall not be referred to as an appraisal. This part does not apply to a probate referee acting pursuant to Sections 400 to 408, inclusive, of the Probate Code. However, a probate referee shall not perform an appraisal for a federally related transaction, unless the probate referee is also licensed under this part.

(c) "Appraisal Foundation" means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.

(d) "Appraisal Subcommittee" means the appraisal subcommittee of the Federal Financial Institutions Examination Council.

(e) "Certificate" means a certificate issued by the office authorizing the person to whom it is issued to act within this state as a state certified real estate appraiser.

(f) "Certification" means the procedures and requirements a person shall comply with in order to qualify for issuance of a certificate and includes the issuance of the certificate.

(g) "Certified real estate appraisal report" means an appraisal report performed, given, or signed and certified as such by a state certified real estate appraiser.

(h) "Committee" means the Real Estate Appraisers' Advisory

Committee.

(i) "Director" means the Director of the Office of Real Estate Appraisers.

(j) "Federal financial institutions regulatory agency" means the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Home Loan Bank System, National Credit Union Administration, the Resolution Trust Corporation, and any other agency determined by the director to have jurisdiction over transactions subject to this part.

(k) "Federally related real estate appraisal activity" means the act or process of making or performing an appraisal on real estate or real property in a federally related transaction and preparing either an appraisal or certified real estate appraisal as a result of that activity.

(*l*) "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency engages in, contracts for or regulates and which requires the services of a real estate appraiser or state certified real estate appraiser regulated by this part. This term also includes any transaction identified as such by a federal financial institutions regulatory agency.

(m) "Office" means the Office of Real Estate Appraisers.

(n) "Real estate appraiser" means a person who has been issued a license by the office under this part to engage in real estate appraisal activity.

(o) "Secretary" means the Secretary of the Business, Transportation and Housing Agency.

(p) "State certified real estate appraiser" is a person who holds a current valid certificate issued to him or her under this part to perform, make, or approve and sign a certified real estate appraisal. A state certified real estate appraiser may use the abbreviation SCREA in his or her real property appraisal business and may designate any appraisal which he or she performed, prepared, made, or approved and signed as a "certified real estate appraisal."

CHAPTER 2. ADMINISTRATION

11310. The Governor shall appoint, subject to confirmation by the Senate, the Director of the Office of Real Estate Appraisers who shall, in consultation with the Governor and secretary, administer the licensing and certification program for real estate appraisers.

(a) The director shall serve at the pleasure of the Governor. The salary for the director shall be fixed and determined by the secretary with approval of the Director of Finance.

(b) The director shall not be actively engaged in the appraisal business or any other affected industry for the term of appointment and for one year thereafter.

(c) The director, in consultation with the secretary and in accordance with the State Civil Service Act, may appoint and fix the

compensation of legal, clerical, technical, investigation, and auditing personnel as may be necessary to carry out this part. All personnel shall perform their respective duties under the supervision and direction of the director.

(d) The director may appoint a deputy director of regulatory licensing activites and a deputy director of administration. The deputy directors shall perform their respective duties under the supervision and direction of the director.

(e) Every power granted to or duty imposed upon the director under this part may be exercised or performed in the name of the director by the deputy directors, subject to conditions and limitations as the director may prescribe.

11311. The secretary shall appoint the Real Estate Appraisers' Advisory Committee to assist the director in the administration of this part. The committee shall advise the director generally on matters relating to the appraisal of real property and in particular on matters relating to ethics and standards requirements, courses of instruction, equivalent education and experience, continuing education requirements, and discipline and enforcement procedures. Before promulgating any regulation pursuant to this part, the director shall consult with and seek advice thereon from the committee.

Each member of the committee shall serve at the pleasure of the secretary.

The committee shall consist of nine members, two of whom shall be real estate appraisers, two of whom shall be state certified real estate appraisers, and five of whom shall be members of the public.

Each initial appraiser member appointed to the committee shall be a person who satisfies all of the prerequisites to taking the examination for licensure or certification as prescribed in this part.

Public members shall include at least two real estate licensees and at least two members from federally insured institutions with experience in real estate secured lending.

11312. Each member of the committee shall be reimbursed his or her actual and necessary expenses in the discharge of his or her duties.

11313. The office is under the supervision and control of the secretary. The duty of enforcing and administering this part is vested in the director and he or she is responsible to the secretary therefor. The director shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part. Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

11314. The office is required to include in its regulations requirements for licensure, certification, and discipline of real estate appraisers that ensure protection of the public interest and comply in all respects with Public Law 101-73 and any subsequent amendments thereto. Requirements for certified appraisers, shall, at

a minimum, meet the criteria established by the Appraiser Qualification Board of the Appraisal Foundation or the Appraisal Subcommittee.

CHAPTER 3. SCOPE OF PRACTICE

11320. No person shall engage in federally related real estate appraisal activity governed by this part or assume or use the title of or any title designation or abbreviation as a licensed or certified real estate appraiser in this state without first becoming a real estate appraiser or state certified real estate appraiser as defined in Section 11302. The possession of a license or certificate issued pursuant to this part does not preempt the application of other statutes including the requirement for specialized training or licensure pursuant to Article 3 (commencing with Section 750) of Chapter 2.5 of Division 1 of the Public Resources Code.

11321. No person other than a state-certified real estate appraiser may assume or use that title or any title, designation, or abbreviation likely to create the impression of state licensure or certification as a real estate appraiser in this state.

Only an individual who has qualified as a state-certified real estate appraiser is authorized to perform and sign a certified real estate appraisal report relating to real estate or real property in this state.

An appraisal of real property containing one-to-four residential units may be termed by a certified appraiser to be a certified appraisal, or by an appraiser as an appraisal, pursuant to this chapter if each of the following conditions are met:

(a) A Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC) form approved for current usage by the agency or agencies designated in the form is utilized for purposes of the appraisal.

(b) That form is completed in compliance with the rules and regulations of the agency or agencies adopting that form, whether or not it is intended for the use of the agency or agencies.

11323. No real estate appraiser or state certified real estate appraiser shall engage in any appraisal activity in connection with the purchase, sale or transfer of real property if his or her compensation is affected by the sales commission generated by the transaction for which the appraisal was made.

11324. An individual who is not a state licensed or certified appraiser may assist in the preparation of an appraisal under the following conditions:

(a) The assistance is under the direct supervision of an individual who is a licensed or certified appraiser and the decision or conclusion as to value is made by a licensed or certified appraiser.

(b) The final appraisal document is approved and signed, with acceptance of full responsibility, by the supervising individual who is licensed or certified by the state pursuant to this part, identifies the assisting individual, and identifies the scope of work performed by

the individual who assisted in preparation of the appraisal.

(c) For purposes of this section, "assists in the preparation" means ministerial aspects of the appraisal activity and shall not include any conclusion of value of the property.

11325. (a) The director shall adopt regulations which specify the types of federally related transactions which shall be performed by licensed and certified appraisers.

(b) Regulations adopted by the director pursuant to this section shall, at a minimum, meet the standards established by federal financial institution regulatory agencies as required by Section 1112 of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73.

CHAPTER 4. LICENSES AND CERTIFICATION APPLICATION

11340. The director shall adopt regulations governing the process and the procedure of applying for a real estate appraiser license and real estate appraiser certificate which shall include, but not be limited to, necessary experience or education, equivalency, and minimum requirements of the Appraisal Foundation, if any.

(a) For purposes of the educational background requirements established under this section, the director shall grant credits for any courses taken on real estate appraisal ethics or practices pursuant to Section 10153.2, or which are deemed by the director to meet standards established pursuant to this part and federal law.

(b) For the purpose of implementing and applying this section, the director shall, with the advice and assistance of the committee, prescribe by regulation "equivalent courses" and "equivalent experience." The experience of employees of an assessor's office or of the State Board of Equalization in setting forth opinions of value of real property for tax purposes shall be deemed equivalent to experience in federally related real estate appraisal activity.

(c) The director shall adopt regulations governing the process of applying for certification as a state certified real estate appraiser which shall meet, at a minimum, the requirements and standards established by the Appraisal Foundation, the Resolution Trust Corporation, and the federal financial institutions regulatory agencies acting pursuant to Section 1112 of the Financial Institutions Reform Recovery and Enforcement Act of 1989, Public Law 101-73 (FIRREA).

11341. A license shall be valid for four years from the date of its issuance.

11342. A certificate shall be valid for four years from the date of its issuance.

CHAPTER 5. RECIPROCITY OF LICENSES AND CERTIFICATION

11350. The director shall recognize on a temporary basis the certification or license of an appraiser issued by another state subject

to the following:

(a) The property to be appraised is part of a federally related transaction.

(b) The appraiser's business is of a temporary nature.

(c) The appraiser registers with the state as provided by regulations of the director.

(d) The certification or licensing standards of the appraiser's state shall meet or exceed the standards required by this part for the specific appraisal to be made.

(e) The appraiser pays the fee set by the director.

11351. Reciprocity is not required under this chapter if the appraiser from another state affiliates with an appraiser licensed or certified under this part and performs the appraisal as provided by Section 11324.

CHAPTER 6. CONTINUING EDUCATION

11360. Except as otherwise provided by regulation as a prerequisite to renewal of a real estate apraiser license or certification, a real estate appraiser or certified real estate appraiser shall present evidence satisfactory to the director of having met the continuing education requirements of the Appraisal Foundation and the appraisal subcommittee.

11361. The director shall adopt regulations for implementation of this chapter to ensure that persons engaged in appraisal activity have current knowledge of real estate appraisal theories, practices, and techniques which will provide a high degree of service and protection to the public.

CHAPTER 7. FEES

11400. All fees payable to the office under this part shall be paid at the time of application to the office. All fees shall be deemed earned by the office upon receipt and are not refundable.

11401. (a) The fee to take an examination for a license as a real estate appraiser shall not exceed fifty dollars ($50).

(b) The fee to take a reexamination for a license as a real estate appraiser by a person who has failed to pass the original examination, or failed to take it as scheduled, shall not exceed fifty dollars ($50).

11402. (a) The fee to take an examination for certification as a state certified real estate appraiser shall not exceed one hundred dollars ($100).

(b) The fee to take a reexamination for a certification as a state certified real estate appraiser by a person who has failed to pass the original examination, or who has failed to take the original examination as scheduled, shall not exceed one hundred dollars ($100).

11403. If an applicant for any examination fails to take the examination on the date scheduled, he or she may make application

in writing to the office for a new date. A fee of fifteen dollars ($15) shall accompany the written request for applying for the new examination date. A fee of twenty-five dollars ($25) shall accompany the written request for all subsequent new examination dates.

11404. The fee for an original or renewal real estate appraiser license, plenary or restricted, shall not exceed six hundred dollars ($600).

11405. The fee for an orginal or renewal certification, plenary or restricted, as a state certified real estate appraiser shall not exceed seven hundred dollars ($700).

11406. (a) The director shall by regulation establish fees for approval of continuing education courses or their equivalent, or for the evaluation of petitions of applicants based upon claims of equivalency pursuant to Section 11340. The fees established by regulation shall be sufficient to cover the costs incurred by the office in processing applications for course approvals and petitions for equivalency.

(b) The director shall by regulation establish fees for approval of courses of study required to be taken by applicants for the real estate appraiser license examination and the state certified real estate appraiser license examination. The fees established by regulation shall be sufficient to cover the costs incurred by the office in processing applications for course approvals and petitions for equivalency.

11407. The director may by regulation prescribe fees lower than the maximum fees established by this chapter if he or she determines that lower fees will be adequate to offset the costs incurred by the office and the committee in the administration of this part.

11408. Any person who has qualified in an examination for a real estate appraisal license or certification shall file the required application and fee for the required license or certificate within one year thereafter in order to receive that license or certificate.

CHAPTER 8. REAL ESTATE APPRAISERS REGULATION FUND

11410. The Real Estate Appraisers Regulation Fund is hereby created in the State Treasury to consist of moneys raised by fees and assessments imposed pursuant to this part.

11411. There shall be separate accounts in the Real Estate Appraisers Regulation Fund for purposes of administration and for purposes of recovery. These accounts shall be known respectively as the Administration Account and the Recovery Account. On and after January 1, 1996, five percent of the amount of any license or certification fee collected under this part shall be credited to the Recovery Account. The Recovery Account is a continuing appropriation for carrying out this chapter.

11412. (a) On or before January 1, 1995, the director shall establish regulations for administration of the Real Estate Appraiser Recovery Account with claims, funding and administrative

procedures closely analogous to those which have been adopted for the Real Estate Recovery Fund established in Chapter 6.5 (commencing with Section 10470) of Part 1.

(b) The statute of limitations for claims against the fund arising between the effective date of this part and the creation of the fund shall be tolled until the date the fund is created.

CHAPTER 9. MISCELLANEOUS

11421. On or before January 1, 1993, the office shall study the need for, and feasibility of, changes to this part in the following areas:

(a) Whether appraisal of some types of real estate-related personalty, such as heavy equipment or business fixtures, merits regulation in this part.

(b) Whether it is appropriate to impose additional supervised training or apprenticeship requirements for appraisers.

(c) The type and sources of information that are and should be available to appraisers.

(d) Upon what conditions, if any, copies of appraisals should be made available to consumers.

(e) The appropriateness and potential cost of applying this part to other types of property.

11422. (a) The office shall, on or before July 1, 1991, and at least annually thereafter, transmit to the subcommittee specified in subdivision (j) of Section 11302 a roster of persons licensed or certified pursuant to this part.

(b) Every real estate appraiser or certified real estate appraiser that performs or seeks to perform an appraisal in a federally related transaction shall pay to the office for transmission to the subcommittee specified in subdivision (i) of Section 11302 a fee specified by that subcommittee.

A receipt evidencing payment of the fee shall be displayed with the real estate appraiser license or certificate, as the case may be, of any person performing or seeking to perform appraisal activity regulated by this part.

(c) The office may also assess a fee sufficient to equitably apportion and defray the cost of administering this section. The fee shall be paid prior to performing or seeking to perform an appraisal.

SEC. 2. Title 4.5 (commencing with Section 1922) of Division 3 of the Civil Code is repealed.

SEC. 3. The sum of seven hundred thirty thousand dollars ($730,000) is hereby appropriated from the Education and Research Account in the Real Estate Fund to the Office of Real Estate Appraisers for use during the 1990–91 fiscal year as a loan to establish and implement a regulatory structure for the licensing and certifying of real estate appraisers in California pursuant to the intent expressed in Section 4 of this act. The funds loaned shall be repaid to the Education and Research Account in the Real Estate Fund within four years from the date of the loan. The funds to repay the

loan shall come from the fees and other moneys collected or paid in accordance with this act. In addition, interest shall be paid at an annual interest rate of 10 percent on funds loaned commencing on the day funds are loaned.

Funds for the support of the program in subsequent fiscal years shall be included in the annual Budget Bill.

SEC. 4. It is the intent of the Legislature in enacting this act to implement the policy of the Congress as expressed in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law No. 101-73 (FIRREA), and to establish a state program to license and certify real estate appraisers.

SEC. 5. Section 2 of this act shall become operative on July 1, 1991.

CHAPTER 492

An act relating to domestic water systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 10, 1990]

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

SECTION 1. Pursuant to Section 14012 of the Water Code, the Department of Water Resources is hereby authorized to make grants from the California Safe Drinking Water Bond Fund in accordance with the California Safe Drinking Water Bond Law of 1988 (Chapter 16 (commencing with Section 14000) of Division 7 of the Water Code) to the following agencies for purposes of financing proposed projects and investigations to identify alternatives for system improvements therefor:

(1) Alta Vista School District.
(2) Biola Community Services District.
(3) Casitas Municipal Water District.
(4) Clovis, City of.
(5) Dos Palos "Y" Community Service District.
(6) Dinuba, City of.
(7) Fresno County Service Area No. 36 (Helm/Helm School).
(8) Fresno County Service Area No. 39 Zone A (Beran Way and Beran Tract No. 1).
(9) Fresno County Service Area No. 39 Zone B (Prospect Grove/ Beran No. 2).
(10) Fresno County Water Works District No. 40 (Shaver Springs Subdivision).
(11) Hilmar County Water District.
(12) Humboldt Community Services District.
(13) Kerman, City of.

(14) Keyes Community Services District.
(15) Lakeside Union Elementary School District.
(16) Lindsay-Strathmore Irrigation District.
(17) Livingston, City of.
(18) Lodi, City of.
(19) Lompico County Water District.
(20) Los Banos, City of.
(21) Mariposa Public Utility District.
(22) Minter Field Airport District.
(23) Nevada Irrigation District (Anderson Improvement District).
(24) Nevada Irrigation District (Edgewood Road Improvement District).
(25) Nevada Irrigation District (Elizabeth George Treatment Plant).
(26) Nevada Irrigation District (Forest Park Improvement District).
(27) Nevada Irrigation District (Green Improvement District).
(28) Nevada Irrigation District (Jewel Improvement District).
(29) Nevada Irrigation District (Lake Vera Improvement District).
(30) Nevada Irrigation District (Los Cedros Lane Improvement District).
(31) Nevada Irrigation District (Maben-Fickett Improvement District).
(32) Nevada Irrigation District (O'Leary Improvement District).
(33) Nevada Irrigation District (Pino Alto Improvement District).
(34) Nevada Irrigation District (Red Hill Improvement District).
(35) Nevada Irrigation District (Smith-Moulton Improvement District).
(36) Nevada Irrigation District (Sugarloaf Improvement District).
(37) Nevada Irrigation District (Troost-Hidden Valley Improvement District).
(38) Panama Buena Vista School District.
(39) Pond Union School District.
(40) Sanger, City of.
(41) San Joaquin County Water District No. 2.
(42) Santa Ynez River Water Conservation District No. 1.
(43) Shafter, City of (Dewitte Water System).
(44) Shafter, City of (Sellars No. 2).
(45) Selma Unified School District.
(46) Sonoma County Service Area No. 38 (Rain Creek).
(47) Terra Bella Irrigation District (Improvement District No. 1).
(48) Terra Bella Irrigation District (Improvement District No. 2).
(49) Winton Water and Sanitary District.

SEC. 2. Pursuant to Section 13896.2 of the Water Code, the Department of Water Resources is hereby authorized to make a

grant from the California Safe Drinking Water Bond Fund, in accordance with the California Safe Drinking Water Bond Law of 1986 (Chapter 10.7 (commencing with Section 13895) of Division 7 of the Water Code), to the City of Trinidad for purposes of financing a proposed project and investigation to identify alternatives for system improvements therefor.

SEC. 3. The Department of Water Resources shall determine eligibility for the amount of any grant authorized in this act, in accordance with the California Safe Drinking Water Bond Law of 1988 (Chapter 16 (commencing with Section 14000) of Division 7 of the Water Code) and may make those grants in accordance with the bond law.

SEC. 4. (a) The Legislature hereby finds and declares that, in order to meet the minimum safe drinking water standards, there are critical needs within the entities identified in this act to immediately undertake certain improvements necessary to enable residents of those communities to have a dependable and potable water supply.

(b) The Legislature further finds and declares that the water systems of the entities identified in this act have critical deficiencies in the areas of treatment, storage, and distribution of water which pose a serious threat to the public health and welfare of all consumers within those communities and that each entity is only barely meeting the demand for water within the community.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize grants from the California Safe Drinking Water Fund to the entities identified in this act to resolve the critical water supply problems of those communities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 493

An act to add Section 18081.3 to the Health and Safety Code, relating to mobilehomes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 10, 1990]

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

SECTION 1. Section 18081.3 is added to the Health and Safety Code, to read:

18081.3. (a) Notwithstanding the provisions of Section 18081 or any other provision of law, the department may, for statistical or commercial purposes and upon payment of fees prescribed by the

department, provide bulk information regarding the registration and title status of manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes.

(b) For the purpose of this section, bulk information includes all or part of the information maintained by the department in its registration and title master file data base, except the name or names of the registered owner of the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

SEC. 2. This act is an urgency statute necessary for immediate preservation of the public peace, health, or 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 current level of loan to value ratios for financing the purchase of manufactured homes or mobilehomes is not disrupted, and to ensure that the value guides used by the state to determine the correct amount of sales and use taxes are kept current and reflect the true value of manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes, it is necessary that this act take effect immediately.

CHAPTER 494

An act relating to wildfire protection, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 10, 1990.]

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

SECTION 1. The sum of five million nine hundred seventy-seven thousand dollars ($5,977,000) is hereby appropriated from the Special Fund for Economic Uncertainties to the Department of Forestry and Fire Protection for encumbrance as a severe fire hazard augmentation for early activation of seasonal fire crews, stations, lookouts, and air attack operations, for the hiring of additional temporary personnel, and to support related contract services required to enhance the department's capacity for detecting wildland fires and responding on an initial attack basis during the 1990 fire season.

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 fourth consecutive year of drought conditions, California currently faces the potential for an earlier and unusually severe fire season, with the likelihood of extensive and disastrous wildland fires.

In order to activate state firefighting resources earlier and provide additional firefighting personnel for the 1990 fire season, facilitating the shortest possible response times for essential wildland fire suppression operations throughout California, it is necessary that this act take effect immediately.

CHAPTER 495

An act to add Chapter 20 (commencing with Section 77901) to Division 22 of the Food and Agricultural Code, relating to agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 10, 1990.]

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

SECTION 1. Chapter 20 (commencing with Section 77901) is added to Division 22 of the Food and Agricultural Code, to read:

CHAPTER 20. CALIFORNIA CUT FLOWER COMMISSION

Article 1. Declaration and General Provisions

77901. The production and marketing of cut flowers and cut greens products constitute an important industry of this state which not only provides substantial and necessary revenues for the state and employment for its citizens, but also furnish cut flowers and cut greens products to the public.

77902. The maintenance of the cut flowers and cut greens industry of California is necessary to assure the consuming public of a continuous supply of this product and the maintenance of needed levels of income for those engaged in the industry.

77903. The production and marketing of cut flowers and cut greens produced in this state are hereby declared to be affected with a public interest. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

77904. No action taken by the commission, or by any individual in accordance with this chapter or with regulations adopted under this chapter, is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

77905. This chapter shall be liberally construed. If any provision

of this chapter or the application thereof to any person or circumstances is held to be invalid, the 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.

77906. It is hereby declared as a matter of legislative determination that members of the commission are intended to represent and further the interest of a particular agricultural industry concerned and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are elected or appointed to the commission, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

77907. A commission form of administration created by this chapter is designed to deal with the broad field of production research, education, advertising, market research, promotion, and trade of flowers.

Article 2. Definitions

77910. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

77911. "Flower" means all types of cut flowers and cut greens grown in California for decorative purposes.

77912. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

77913. "Commission" means the California Cut Flower Commission.

77914. (a) "Districts" shall be based on the gross dollar value of the product grown in a geographical area as follows:

(1) District 1 consists of the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Mono, Napa, Nevada, Placer, Plumas, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba.

(2) District 2 consists of the Counties of Fresno, Inyo, Kings, Madera, Mariposa, Merced, Monterey, San Benito, Santa Cruz, and Tulare.

(3) District 3 consists of the Counties of Kern, Los Angeles, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura.

(4) District 4 consists of the Counties of Imperial, Orange, Riverside, and San Diego.

(b) The boundaries of any district or the number of board members, or both, may be changed by a two-thirds vote of the

membership of the commission, which is concurred in by the director, when necessary to maintain similar total production that represents a gross dollar value among the districts and to ensure proper representation by producers. These boundaries need not coincide with county lines.

77915. "Market" or "marketing" means to sell flowers.

77916. "Production research" means any cultural and biological research relating to field production of flowers.

77917. "Marketing year" means the period beginning January 1 of any year and extending through the last day of December of that year.

77918. "Producer" means any person in this state who grows flowers for market and who, upon request, provides proof of commodity sale. "Producer" does not include any person who has grown less than a gross value of one hundred thousand dollars ($100,000) of flowers in the preceding marketing year.

77919. "Market analysis" means any marketing, sales, promotion, health, and social research relating to the marketing of flowers in this state and nationally and internationally.

77920. "Market development" means trade promotion, public information, dissemination of information on health and social issues and other matters, and activities related to the production of flowers in this state and nationally and internationally.

77921. "Market research" means any investigation, development, analysis, or use of information relating to the marketing, sales, or promotion of flower products in this state and nationally and internationally, including, but not limited to, trade practices, consumer trends, promotion, sales, and advertising.

77922. "Shipping research, analysis, and development" means the investigation, development, analysis, or use of information relating to the shipping of flower products in this state and nationally and internationally.

77923. "Ship" means to transport flowers.

77924. "Advertising and sales promotion" means, in addition to its ordinarily accepted meaning, trade promotion and activities for the prevention, modification, or removal of trade barriers which restrict the free flow of flowers to market, including the presentation of facts to, and negotiations with, state, federal, and foreign governmental entities on matters which affect the marketing of flowers, to the extent permitted by federal law.

Article 3. The California Cut Flower Commission

77925. (a) There is in the state government the California Cut Flower Commission. The commission shall be composed of 13 members.

(b) Twelve producers, three each from Districts 1 to 4, inclusive, shall be elected by and from producers within the respective districts.

(c) One member shall be either a public member or a producer member, as determined by a majority of the producer members elected pursuant to subdivision (b).

If the producer members determine that the member shall be a public member, the public member shall be appointed by the director from the nominees recommended by the producer members.

If the producer members determine that the member shall be a producer, the producer members shall appoint a producer to the commission, who shall be known as the producer member-at-large.

(d) The director and other governmental officers, as determined by the commission, shall be ex officio members of the commission.

(e) The ex officio members are nonvoting members of the commission.

77926. (a) The director may require the commission to correct or cease any activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.

(b) If the commission refuses or fails to cease these activities or functions or to make corrections required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of the activities or functions, as required by the director, has been accomplished by the commission.

(c) Any action of the commission in violation of the written notice is without legal force or effect. The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.

(d) At the same time the written notice is provided to the commission, the director shall notify the commission in writing of the specific acts which the director determines are not in the public interest or are in violation of this chapter, the director's reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and the director's recommendations with respect to any action that will make the activities or functions acceptable.

77927. The commission or the director may bring an action for judicial relief from the director's written notice, or from noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other appropriate relief.

77928. When the director is required to concur in a decision of the commission, the director shall concur, refuse to concur, or request additional information from the commission within 15 working days from the date the director receives notification of the decision.

77929. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his or her

duties and responsibilities pursuant to this chapter. However, a court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to that action.

77930. An alternate member to each member of the commission, except the ex officio members, shall be elected in the same manner and for the same term as the member. Except as provided in Section 77937, an alternate member shall, in the absence of the member for whom he or she is an alternate, serve in place of the member and shall exercise all of the rights, privileges, and powers of the member when serving on the commission. If the status of a member changes, thereby making the member ineligible to serve, or in the event of the death, removal, resignation, or disqualification of a member, the alternate member shall act as a member of the commission until a qualified successor is elected or appointed.

77931. Any vacancy on the commission occurring by the failure of any person elected to or serving on the commission as a member or alternate member to continue in his or her position due to a change in his or her status, thereby making the person ineligible to serve, or due to death, removal, resignation, or disqualification, shall be filled for the unexpired portion of the term by a majority vote of the remaining members of the commission. The appointee shall meet all of the qualifications set forth in this article as required for the member or alternate whose office he or she is to occupy.

77932. Any vacancy on the commission occurring by the failure of the public member or his or her alternate member to continue in his or her position due to a change in his or her status, thereby making the member or alternate ineligible to serve, or due to death, removal, resignation, or disqualification, shall be filled for the unexpired portion of the term by the director from nominees recommended by the commission. The appointee shall meet all of the qualifications set forth in this article as required for the member or alternate whose office he or she is to occupy.

77933. Any producer member and his or her alternate member on the commission shall be an individual producer or an employee representing a producer who has a financial interest in producing, or causing to be produced, flowers for market. Qualifications of producer members and their alternate members shall be maintained during their entire term of office.

77934. The public member and his or her alternate member on the commission shall have all the powers, rights, and privileges of any other member or alternate member, respectively, on the commission. The public member and his or her alternate member shall not have any financial interest in the flower industry.

77935. The term of office of all members and alternate members of the commission, except ex officio members, is three years commencing with the first day of December prior to the beginning of the marketing year in the year of their election and until qualified

successors are elected. The terms of office of each member and alternate member of the commission shall be limited to three consecutive terms.

77936. The commission is hereby declared and created a corporate body. It may sue and be sued, enter into contracts, adopt a seal, and has all of the powers of a corporation. Copies of its proceedings, records, and acts, when authenticated, shall be prima facie evidence of the truth of all statements therein.

77937. A quorum of the commission is a majority of the voting members of the commission. Any alternate member to any producer member may serve in the absence of any other member if that member's alternate is also absent, if that action is necessary to establish a quorum. Except as provided in Sections 77914 and 78002, the vote of a majority of the members present at a meeting at which there is a quorum shall constitute the act of the commission.

77938. The director or his or her representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission.

77939. Members and alternate members of the commission and members of committees established by the commission shall not receive any compensation but shall receive the per diem established by Section 11564.5 of the Government Code. Ex officio members who are state officers or employees and who are compensated by the state are not eligible for per diem pursuant to this section. In addition, members and alternate members of the commission and members of committees established by the commission shall be reimbursed for actual and necessary travel expenses under the rules of the Department of Personnel Administration. The per diem and reimbursement for travel expenses shall be paid to those members for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission.

77940. All funds received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission shall be deposited in banks which the commission may designate and shall be disbursed by order of the commission through an agent or agents designated by the commission for that purpose. The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in an amount of not less than twenty-five thousand dollars ($25,000).

77941. The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission. No member , alternate member, employee, or agent of the commission is personally liable for the contracts of the commission nor is any such person responsible individually in any way to any producer or any other

person for errors in judgment, mistakes, or other acts, either of commission or omission, as a principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No member, alternate member, employee, or agent of the commission, is responsible individually for any act or omission of any other member, alternate member, employee, or agent of the commission. Liability is several and not joint, and no member, alternate member, employee, or agent of the commission is liable for the default of any other member, alternate member, employee, or agent of the commission.

Article 4. Powers and Duties of the Commission

77945. The powers and duties of the commission include, but are not limited to, all of those specified in this article.

77946. The commission may adopt, amend, and repeal regulations and operating procedures necessary to carry out this chapter, including regulations governing appeals from actions taken by the commission pursuant to any of its regulations or operating procedures.

77947. The commission may administer and enforce this chapter and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, the proper or advisable effectuation of this chapter.

77948. The commission may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers as it deems necessary. The officers have the powers and duties delegated to them by the commission.

77949. The commission may employ a person to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, necessary to carry out this chapter. The commission may retain a management firm or the staff from any board, commission, or agency of the state or federal government to perform the functions prescribed by this section under the control of the commission. If any person employed by the commission engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the person.

77950. The commission may fix the compensation for all employees of the commission.

77951. The commission may appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out this chapter.

77952. The commission may establish offices and incur expenses,

enter into any and all contracts and agreements, create liabilities, borrow funds in advance of receipt of assessments, and repay producers for costs incurred during the initial formation of the commission, as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

77953. The commission shall keep accurate books, records, and accounts of all its dealings which shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. A summary of the audit shall be reported to all producers and a copy of the summary shall also be submitted to the department. In addition, the director may, as he or she determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

77954. (a) The commission may present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect this chapter, to the extent permitted by federal law.

(b) The commission shall not expend more than 10 percent of its annual budget during the 1991 to 1995, calendar years, inclusive, on activities for the modification or removal of trade barriers that restrict the free flow of flowers to market, including litigation involving trade practices, to the extent permitted by federal law.

77955. The commission may make, in its name, contracts to receive or render services in formulating and conducting plans and programs and any other contracts or agreements that the commission deems necessary for carrying out this chapter.

77956. The commission may conduct, and contract with others to conduct, production research, including the study, analysis, accumulation, and dissemination of information obtained from that research or otherwise, regarding this chapter.

The commission may implement and conduct, and contract with others to implement and conduct, market analysis, market development, market research, and shipping research, analysis, and development. The commission may study, analyze, accumulate, and disseminate any and all information obtained from those activities.

77957. The commission may accept contributions or matching private, state, or federal funds, and employ or make contributions of funds to other persons or state or federal agencies, for purposes of this chapter.

77958. The commission may publish and distribute, without charge, bulletins and other communications for the dissemination of information to producers.

77959. The commission shall establish an assessment rate to defray the operating costs of the commission.

77960. The commission shall adopt an annual budget according to accepted accounting practices. The director shall concur in the adoption of the budget prior to the encumbrance of funds, except for encumbrances necessary to pay the compensation of employees of the commission.

77961. (a) The commission may advertise or otherwise promote the sale of flowers.

(b) The commission may jointly advertise or otherwise promote the sale of flowers with any other corporation or organization advertising or otherwise promoting the sale of any other product or commodity.

77962. The commission shall annually prepare and submit to the director, for his or her concurrence, a statement of contemplated activities authorized pursuant to this chapter.

77963. The commission and the director shall keep confidential and shall not disclose, except when required in a judicial proceeding, all lists of producers in their possession.

77964. The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

Article 5. Implementation and Voting Procedures

77970. (a) Within 45 days of the effective date of this chapter, the director shall establish a list of producers eligible to vote on the implementation of this chapter. In establishing the list, the director may require that producers submit the names and mailing addresses of all known producers. The director shall receive suggestions for inclusion on that list from any organization of producers, and may verify the eligibility of any person so suggested. The director also may require that the information provided include the quantity of flowers produced by each producer or, in the alternative, may establish procedures for receiving the information at the time of the referendum vote conducted pursuant to Section 77971. The request for the information shall be in writing, and the requested information shall be filed within 10 days following receipt of the request.

(b) Any producer whose name does not appear upon the appropriate list may have his or her name placed on the list by filing with the director a signed statement identifying himself or herself as a producer. The absence of a producer's name from the list does not exempt the producer from paying assessments and does not invalidate any industry votes conducted pursuant to this article.

(c) Proponents and opponents of the commission may contact producers on the lists in a form and manner prescribed by the director so long as all expenses associated with the contacts are paid in advance.

(d) Any proponent or opponent of the commission may submit to the director a statement of his or her position on the matter, and the director shall include these statements with the referendum ballots.

77971. This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the director finds, in a referendum vote conducted by the director

that at least 40 percent of the total number of producers from the list established by the director pursuant to this article have participated and that either of the following has occurred:

(a) Sixty-five percent of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting marketed a majority of the gross dollar value of flowers in the preceding marketing year by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting marketed 65 percent or more of the total gross dollar value of flowers in the preceding marketing year by all of the producers who voted in the referendum.

77972. The director shall establish a period to conduct the referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe additional procedures that may be necessary to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period to not more than 60 days.

77973. The failure of a producer to receive a ballot shall not invalidate a referendum.

77974. If the director finds that a favorable vote has been given as provided in Section 77971, the director shall certify and give notice of the favorable vote to all producers whose names and addresses are on file with the director.

77975. If the director finds that a favorable vote has not been given as provided in Section 77971, the director shall certify and declare this chapter inoperative. The director may conduct another implementation referendum vote one or more years after the previous vote has been taken.

77976. Upon certification of the commission, the director shall contact all producers in each district by mail, or call meetings of producers in each district, for the purpose of nominating and electing persons to the commission. All producers on the director's list shall be given written notice of any election meetings at least 10 days prior to the meeting date. To be eligible for election to the commission, producer nominees shall present to the director a nomination petition with the signatures of at least three eligible producers from the district from which the nominee is seeking election.

77977. Subsequent to the first election of members of the commission pursuant to this chapter, persons to be elected to the commission shall be selected pursuant to nomination and election procedures which are adopted by the commission with the concurrence of the director.

77978. (a) Prior to the director holding the referendum pursuant to Section 77971, the proponents of the commission shall deposit with the director the amount that the director determines necessary to defray the expenses of preparing the necessary lists and

information and conducting the referendum.

(b) Any funds not used in carrying out Section 77971 shall be returned to the proponents of the commission who deposited the funds with the director.

(c) Upon the establishment of the commission, the commission may reimburse the proponents of the commission for any funds deposited with the director which were used in carrying out Section 77971 and for any legal expenses and other costs incurred in establishing the commission.

Article 6. Assessments and Records

77985. (a) The commission shall establish the assessment for the following marketing year not later than January 1 of each year, or as soon thereafter as is possible. The commission shall adopt bylaws that indicate when payment is due.

(b) The assessment for the 1991 marketing year shall not be less than one-half of 1 percent, nor more than 1 percent, of the gross dollar value of flowers grown and shipped by a producer. In any subsequent marketing year, the assessment shall not be more than 1 percent of the gross dollar value of flowers grown and shipped by a producer.

(c) A fee greater than the amount specified in subdivision (b) may not be charged unless approved by the vote specified in Section 77971.

77986. This chapter does not apply to any person who grows flowers only for his or her own home use or who is not a producer. However, any such person who markets flowers shall file an affidavit with the commission establishing that the person grows flowers valued at less than the gross value established pursuant to Section 77918. The commission shall then determine whether the affidavit should be approved.

The commission may terminate the collection of assessments directly from producers and, instead, collect producer assessments from shippers or handlers who shall deduct the assessment from amounts paid by the shippers or handlers to the producers and who shall be trustees of the funds until they are paid to the commission at the time and in the manner prescribed by the commission.

77987. Every producer shall keep a complete and accurate record of the gross dollar value of all flowers grown and cut. The records shall be in simple form and contain information as the commission shall prescribe. The records shall be retained by the producer for two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

77988. (a) The commission may specify, by regulation, the conditions under which proprietary information obtained from producers may be disclosed. Otherwise, all proprietary information obtained by the commission or the director from producers is

confidential and shall not be disclosed except when required in a judicial proceeding.

(b) Information on volume shipments, product value, and any other related information which is required for reports to governmental agencies; financial reports to the commission or aggregate sales and inventory information; and any other information which the commission requires that gives only totals, but excludes individual producer information, may be disclosed by the commission.

77989. Any assessment which is levied pursuant to this chapter is a personal debt of every producer so assessed.

77990. Any producer who fails to file a return or pay any assessment within the time required by the commission shall pay the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, pay 1½ percent interest per month on the unpaid balance.

Article 7. Actions and Penalties

77995. It is unlawful for any person to do any of the following:

(a) Refuse to render a report, statement, or record required by the commission.

(b) Furnish a false report, statement, or record required by the commission.

(c) When engaged in the handling of flowers, to fail or refuse to furnish the commission or its duly authorized agents, information concerning the names and addresses of persons from whom the flowers have been received and the quantity so received.

(d) Secrete, destroy, or alter records required to be kept under this chapter.

77996. The commission shall adopt procedures to grant individuals aggrieved by its actions or determinations an informal hearing before the commission or before a committee of the commission designated for this purpose. Appeals from decisions of the commission may be made to the director. The determination of the director shall be subject to judicial review upon petition filed with the appropriate superior court.

77997. (a) The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties and for obtaining injunctive relief or specific performance regarding this chapter and the regulations adopted pursuant to this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any regulation of the commission, including, but not limited to, the nonpayment of assessments or the intentional submission of false information to the commission. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment

or injunctive relief.

(b) A writ of attachment shall be issued pursuant to Chapter 4 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of the Code of Civil Procedure is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of that part, except that the showing of irreparable harm or inadequate remedy at law specified in Sections 526 and 527 is not required.

(c) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business involving flowers until there is full compliance and satisfaction of the judgment. Upon a favorable judgment for the commission, it is entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

77998. The suspension or termination of this chapter shall not affect or waive any right, duty, obligation, or liability which has arisen or which may thereafter arise in connection with this chapter, release or extinguish any violation of this chapter, or affect or impair any right or remedies of the commission with respect to any violation.

Article 8. Continuation or Suspension and Termination

78000. From January 1, 1995, to December 30, 1995, inclusive, the commission shall conduct a referendum among the producers to determine whether the operations of this chapter shall be approved and continued in effect. There is a favorable vote under this chapter if the director determines from the referendum that a majority of the eligible producers voting in the referendum voted in favor of continuing the operations of this chapter. If the director finds that a favorable vote has been given, the director shall so certify and this chapter shall remain effective. If the director finds that a favorable vote has not been given, the director shall so certify and declare the operations of this chapter suspended on December 31, 1995. Thereupon, operation of the commission shall be concluded and funds distributed in the manner provided in Section 78004. No bond or security shall be required for any such referendum.

78001. Following a favorable referendum conducted prior to December 31, 1995, the commission shall conduct a referendum every fifth year thereafter, unless a referendum is conducted as the result of a petition filed pursuant to this article. In that case, the referendum shall be held pursuant to procedures provided in Section 78000 every fifth year following the industry petitioned referendum.

78002. (a) Upon a finding by a two-thirds vote of the

membership of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing year.

(b) The director shall, upon receipt of the recommendation, or may, after a public hearing to review a petition filed with the director requesting a suspension signed by not less than 20 percent of the producers by number who produced not less than 20 percent of the gross dollar value of flowers in the immediately preceding marketing year, hold a referendum among the producers to determine if the operations of the commission shall be suspended. However, the director shall not hold a referendum as a result of the petition unless the petitioner shows, by a preponderance of evidence, that the operation of this chapter has not tended to effectuate its declared purposes.

(c) The director shall establish a referendum period, which shall not be less than 10 days nor more than 60 days in duration. The director may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the director shall tabulate the ballots filed during the period. The director shall suspend the operation of this chapter if the director finds that at least 40 percent of the total number of producers from the list established by the director have participated in the referendum and either one of the following has occurred:

(1) Sixty-five precent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed a majority of the total gross dollar value of flowers in the preceding marketing year by all of the producers who voted in the referendum.

(2) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed 65 percent or more of the total gross dollar value of flowers in the preceding marketing year by all of the producers who voted in the referendum.

78003. (a) The director shall terminate the commission at the end of the then current marketing year if the director finds that the termination of the commission is requested in writing, within a 90-day period, by at least 51 percent of the eligible producers that produce at least 51 percent of the total gross dollar value of flowers.

(b) The person or persons originating the request shall file a written notice with the director in a manner that establishes the date the request is initiated. Any person may withdraw his or her name from the petition requesting the termination prior to the time the request is presented to the director.

(c) The signatures to the petition requesting the termination need not all be appended to one sheet of paper. Each person signing the petition shall specify his or her place of business in a manner that will enable the location to be readily ascertained.

(d) The petition shall bear a copy of the notice of intention to terminate the commission. Signatures shall be secured within the time limit specified in this section.

78004. After the effective date of suspension, the operation of the commission shall be concluded and any and all funds remaining held by the commission and not required to defray the expenses of concluding and terminating operations of the commission shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing year. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to these persons, any funds remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate program conducted by the University of California or the California State University, another state agency, or a federal agency which deals with the purposes of this chapter. If no such program exists, the funds shall be paid into the State Treasury as unclaimed trust funds.

78005. Upon suspension of the operation of this chapter, the commission shall mail a copy of the notice of suspension to all producers whose names and addresses are on file with the commission and to the appropriate policy committees in both the Assembly and Senate.

SEC. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 3. No 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to 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 conduct essential production, promotion, and marketing research during the 1991 marketing year and to ensure a sound and prosperous flower industry, it is necessary that this act take effect immediately.

CHAPTER 496

An act to amend Sections 16471, 16475, and 16475.5 of the Government Code, relating to state funds, and making an appropriation therefor.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 10, 1990.]

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

SECTION 1. Section 16471 of the Government Code is amended to read:

16471. Upon the determination and designation of surplus money in any special fund, the Controller shall transfer from that fund to the Surplus Money Investment Fund in the State Treasury, which fund is continued in existence, the amount of surplus money so determined and designated. Nothing herein shall authorize the transfer of money from any special fund to the Surplus Money Investment Fund, if the transfer will interfere with the carrying out of the purpose for which the special fund was created.

SEC. 2. Section 16475 of the Government Code is amended to read:

16475. As of December 31 and June 30 all interest earned and other increment derived from investments made pursuant to this article shall, on order of the Controller, be deposited in the Surplus Money Investment Fund. The Controller, after deducting an amount equal to the reasonable costs incurred by the Treasurer and the Controller in carrying out this article, shall apportion, as of December 31st and June 30th of each year, to the following funds in the Treasury, interest earned or increment derived from the investments authorized by this article for the six calendar months ending with those dates:

(a) The General Fund.

(b) Each fund into which are deposited or which contains moneys collected from any tax now or hereafter imposed by this state upon the manufacture, sale, distribution, or use of motor vehicle fuel, for use in motor vehicles upon the public streets and highways.

(c) Each fund into which are deposited or which contains moneys collected from motor vehicle and other vehicle registration license fees or from any other tax or license fee now or hereafter imposed by the state upon vehicles, motor vehicles or the operation thereof, except those taxes and license fees which, by the provisions of Section 7 of Article XIX of the Constitution are exempted from the provisions of Section 2 of Article XIX.

(d) Each fund into which are deposited or which contains moneys collected under any law of this state relating to the protection, conservation, propagation, or preservation of fish, game, mollusks, or crustaceans, and fines imposed by any court for the violation of any

of those laws.

(e) Each fund into which are deposited or which contains moneys available for construction, repair, replacement, maintenance or operation of public works of the state, including, but not limited to, the facilities of the State Water Resources Development System, as defined in Section 12931 of the Water Code, toll facilities financed, built, or acquired pursuant to the California Toll Bridge Authority Act, or moneys available for the payment of principal or interest on bonds issued to provide for the construction of those facilities.

(f) Every other fund in respect to which the Board of Control on the advice of the Attorney General determines that the operation of the California Constitution or the United States Constitution prohibits the expenditure of interest received under this article and allocated on the basis of amounts in that fund for General Fund purposes.

(g) Each fund not included within subdivisions (a) to (f), inclusive.

The apportionments shall be made by the Controller in the following manner:

(1) All money not apportioned to the funds referred to in subdivisions (b), (c), (d), (e), (f), and (g) shall be apportioned to the General Fund.

(2) There shall be apportioned to each of the funds referred to in subdivisions (b), (c), (d), (e), (f), and (g), an amount directly proportionate to the respective amounts transferred from those funds to the Surplus Money Investment Fund and the length of time the amounts remained therein.

(3) Interest accrued or paid to the Pooled Money Investment Account from the proceeds of tax-exempt obligations on loans made pursuant to Section 16312 or 16313, to the extent thereof, shall be deemed apportioned to the State Highway Account or such other accounts as may be designated by the Controller pursuant to Section 16654, but only to the extent of its proportionate earnings as determined under paragraph (2). This paragraph shall neither increase nor decrease the amount of earnings apportioned to any fund or account in accordance with this section. These moneys shall be deemed expended (or applied to reimburse expenditures previously paid) first following the allocation of these interest earnings of the Surplus Money Investment Fund to the State Highway Account or such other accounts as may be designated by the Controller pursuant to Section 16654. It is the intent of the Legislature that this paragraph shall authorize the Treasurer and the Controller to monitor the expenditure of the proceeds of tax-exempt obligations in order to comply with federal tax laws and shall neither increase nor decrease the amount of bonds, notes, or other obligations to be issued by the state or any subdivision thereof, nor shall this paragraph be interpreted to indicate that the allocation is contrary to any bond act.

SEC. 3. Section 16475.5 of the Government Code is amended to

read:

16475.5. Notwithstanding the provisions of Section 16475, as of December 31 and June 30 each year all interest earned and other increment derived from the investment pursuant to this article of money of the Fish and Game Preservation Fund, less the expenses incurred by the Treasurer and the Controller under this article in connection with the investment of this money, shall be transferred to the Fish and Game Preservation Fund.

CHAPTER 497

An act to repeal and add Section 1725 of the Business and Professions Code, relating to dentistry, and making an appropriation therefor.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 10, 1990.]

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

SECTION 1. Section 1725 of the Business and Professions Code is repealed.

SEC. 2. Section 1725 is added to the Business and Professions Code, to read:

1725. The amount of the fees prescribed by this chapter which relate to the licensing of dental auxiliaries shall be fixed by board resolution and subject to the following limitations:

(a) The application fee for an original license shall not exceed twenty dollars ($20).

(b) The fee for examination for licensure as a registered dental assistant shall not exceed fifty dollars ($50) for the written examination and shall not exceed sixty dollars ($60) for the practical examination.

(c) The fee for examination for licensure as a registered dental assistant in extended functions shall not exceed two hundred fifty dollars ($250).

(d) The fee for examination for licensure as a registered dental hygienist shall not exceed two hundred twenty dollars ($220).

(e) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed two hundred fifty dollars ($250).

(f) The biennial renewal fee for a dental auxiliary whose license expires on or after January 1, 1991, shall not exceed sixty dollars ($60). On or after January 1, 1992, the board may set the renewal fee in an amount not to exceed eighty dollars ($80).

(g) The delinquency fee shall not exceed twenty-five dollars ($25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees,

including the delinquency fee.

(h) The fee for issuance of a duplicate registration, license, or certificate to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars ($25).

(i) The fee for each curriculum review and site evaluation for educational programs for registered dental assistants which are not accredited by a board-approved agency, the State Department of Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars ($1,400).

(j) The fee for each curriculum review and site evaluation for radiation safety courses that are not accredited by a board approved agency, the State Department of Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars ($300).

(k) No fees or charges other than those listed in subdivisions (a) through (j) above shall be levied by the board in connection with the licensure of dental auxiliaries, registered dental assistants educational program site evaluations and radiation safety course site evaluations pursuant to this chapter.

(*l*) Fees fixed by the board pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(m) Fees collected pursuant to this section shall be deposited in the State Dental Auxiliary Fund.

CHAPTER 498

An act relating to education, and making an appropriation therefor.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 10, 1990]

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

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

(a) The Butte County Office of Education's Curriculum Resource Center houses the largest collection of noncommercial educator-developed curriculum programs in California and disseminates information about these programs throughout California.

(b) The center's clients include, but are not limited to, teachers, administrators and curriculum planners, student teachers, mentor teachers, and special school staff.

(c) Approximately 3,000 educators are served by the Curriculum Resource Center directly each year and information is disseminated indirectly to thousands more.

(d) Since the Curriculum Resource Center is supported primarily by the Butte County Office of Education, its service area could be limited to Butte County. However, because the members of the county board of education acknowledge the value of the Curriculum Resource Center's collection and services, they have allowed the center to continue serving all educators who contact the center.

SEC. 2. The sum of one hundred forty thousand dollars ($140,000) is hereby appropriated from the General Fund to the State Department of Education without regard to fiscal year for allocation to the Butte County Office of Education for purposes of operating the Curriculum Resource Center in Oroville to provide assistance to public schools throughout California as described in Section 1.

SEC. 3. Due to the unique circumstances set forth in Section 1 concerning the Butte County Office of Education's Curriculum Resource Center, it is necessary that funding be made available to that office and 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 499

An act to amend Sections 62212, 62521, 62569, and 62573 of, and to add Section 62574 to, the Food and Agricultural Code, relating to milk, and making an appropriation therefor.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 10, 1990]

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

SECTION 1. Section 62212 of the Food and Agricultural Code is amended to read:

62212. The director may fix the rates of assessments or fees required by Section 62211 at lesser amounts, and may adjust the rates of assessments or fees from time to time, whenever he or she finds that the cost of administering the provisions of this chapter, including any allocation of funds made pursuant to Section 38986, can be defrayed from revenues derived from the lower rates. However, the rate of assessments deducted from payments to producers for market milk, including the handler's own production, and the rate of fees paid by handlers shall, at all times, be in the ratio of 2 to 1, except that this ratio need not be achieved during a six-month period following the transfer of any fund surplus pursuant to Section 62574.

SEC. 2. Section 62521 of the Food and Agricultural Code is amended to read:

62521. For purposes of this chapter, the following terms mean:

(a) "Board" means the Milk Producers Security Trust Fund

Board.

(b) "Fund" means the Milk Producers Security Trust Fund created pursuant to Section 62506.

(c) "Fund surplus" means the amount by which the fund, including security charges collected and all increments received pursuant to Section 62573, exceeds, at any particular time, the maximum amount provided for in Section 62560.

(d) "Handler" means any person who as owner, agent, broker, or intermediary, either directly or indirectly, receives, purchases, or otherwise acquires ownership, possession, or control of milk in unprocessed or bulk form from a producer or a producer-handler for the purpose of manufacturing, processing, selling, or other handling. It includes cooperative associations that, either directly or indirectly, receive, purchase, or otherwise acquire ownership, possession, or control of milk from other handlers or producers who are nonmembers of the cooperative.

(e) "Milk" means bulk whole milk, bulk lowfat milk, bulk skim milk, bulk condensed skim, and bulk cream, and any other combination of these products which have not had nondairy ingredients added. It does not include milk which has been packaged in bottles, cartons, dispenser cans, or other consumer packages.

(f) "Producer" means any person that produces milk from five or more cows whose bulk milk is received, acquired, or handled by a handler. It includes the nonprofit cooperative associations described in Article 3 (commencing with Section 61871) of Chapter 2 in the sale of milk of its member producers to other handlers.

SEC. 3. Section 62569 of the Food and Agricultural Code is amended to read:

62569. Any money which is collected by the director pursuant to this chapter shall be deposited in a bank or other depository which is approved by the director. Funds which are so collected are exempt from Sections 11270 and 11272 of the Government Code and shall be deposited and disbursed only to pay for milk produced and delivered within this state, which has not been otherwise paid for, including pool equalization fund obligations, attorney's fees and other costs incurred in litigation involving the fund, expenses generated by the auditing requirement imposed by Section 62570, and for the costs set forth in Section 62573. The expenditure of those funds is exempt from Section 925.6 of the Government Code.

Nothing in this section prevents the director from using the increment received from investment, reinvestment, or deposit of money specified in Section 62573, in the manner provided by Section 62574.

SEC. 4. Section 62573 of the Food and Agricultural Code is amended to read:

62573. Any increment which is received from investment, reinvestment, or deposit of money pursuant to Section 62572 shall be deposited to the credit of the fund. The Treasurer may deduct from this remittance an amount equal to the reasonable costs incurred in

carrying out Section 62572 and this section or may bill the director for the costs, and the director shall pay the costs from money collected pursuant to this chapter.

Nothing in this section prevents the director from using the increment in a manner provided by Section 62574.

SEC. 5. Section 62574 is added to the Food and Agricultural Code, to read:

62574. Immediately following the semiannual payment to the fund of the increment provided in Section 62573, if the director determines that there is a fund surplus, the director shall transfer an amount equal to the fund surplus to an account administered by the Milk Stabilization Branch of the department to be used to reduce the producer and handler assessments that would otherwise be imposed pursuant to Article 14 (commencing with Section 62211) of Chapter 2. One-half of the fund surplus so transferred shall be used to reduce the obligation of producers and one-half shall be used to reduce the obligation of handlers pursuant to that article. If, at any time, the director determines that the fund has fallen below the maximum amount provided in Section 62560 or that a transfer pursuant to this section would cause the fund to fall below the maximum amount provided in Section 62560, the director shall cease to make any transfer pursuant to this section until the time that a fund surplus exists.

CHAPTER 500

An act to amend Sections 59234 and 60013 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 10, 1990.]

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

SECTION 1. Section 59234 of the Food and Agricultural Code is amended to read:

59234. Any person that violates this chapter or any marketing order which is duly issued by the director and in effect pursuant to this chapter, or violates any rule or regulation which is issued by the director pursuant to this chapter or the marketing order, is liable civilly in an amount of not more than two thousand five hundred dollars ($2,500) for each and every violation. Each violation during any day is a separate offense.

SEC. 2. Section 60013 of the Food and Agricultural Code is amended to read:

60013. Any person that violates a marketing program which is approved and made effective, or violates any regulation which is

adopted by any program committee and approved by the director, is liable civilly in an amount of not more than two thousand five hundred dollars ($2,500) for each and every violation. That sum shall be recovered by the director or, with the approval of the director, by the proration zone which is affected, in an action brought in any court of competent jurisdiction. All sums recovered pursuant to this section shall be expended only for the necessary expenses which are incurred by the director in the administration of this chapter. Each violation during any day is a separate offense.

CHAPTER 501

An act to amend Sections 14901, 14902, 14961, and 14975 of, and to add Sections 14978 and 14979 to, the Food and Agricultural Code, relating to commercial feed, and making an appropriation therefor.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 10, 1990]

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

SECTION 1. Section 14901 of the Food and Agricultural Code is amended to read:

14901. The Legislature hereby finds and declares that it is the intent of this chapter to do all of the following:

(a) Enable the feed and feeding industry, with the aid of the state, to ensure in every way possible a clean and wholesome supply of meat, milk, and eggs for the benefit of the consumer.

(b) Provide assurance to the consumer-buyer of commercial feed that the product he or she purchases is properly identified and of the quality and quantity represented by the manufacturer of the commercial feed.

(c) Provide funds for the administration and enforcement of this chapter by an inspection tonnage tax on commercial feed to be paid by any person that distributes commercial feed to a consumer-buyer in this state.

(d) Enable the commercial feed industry, pursuant to regulations or procedures adopted or established by the director, to implement and maintain an efficient program of inspection and analysis of commercial feed.

SEC. 2. Section 14902 of the Food and Agricultural Code is amended to read:

14902. Except as otherwise provided in Sections 14978 and 14979, the director shall enforce this chapter and adopt and enforce those regulations relating to the manufacture and distribution of, and to the manner of making inspection tonnage tax payments upon, commercial feed as the director determines is necessary to carry out this chapter.

SEC. 3. Section 14961 of the Food and Agricultural Code is amended to read:

14961. All of the money which is received by the director pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund and shall be expended solely for the administration and enforcement of this chapter, including reimbursement of the board or other entity for all of the expenses necessary to carry out the purposes of this chapter.

SEC. 4. Section 14975 of the Food and Agricultural Code is amended to read:

14975. Except as otherwise provided in Sections 14978 and 14979, the board shall be advisory to the director and may make recommendations on all matters pertaining to this chapter, including, but not limited to, the inspection and enforcement program, annual budget, necessary fees to provide adequate inspection services, and regulations required to accomplish the purposes of this chapter.

SEC. 5. Section 14978 is added to the Food and Agricultural Code, to read:

14978. (a) In order to avoid administrative charges which may adversely impact persons subject to this chapter, and to provide for more efficient implementation of this chapter the board may, on or before January 15 of any year, designate itself or the entity to administer this chapter, or designate another entity to administer this chapter, for the fiscal year beginning July 1 of the same year through June 30 of the following year, in accordance with the regulations and procedures adopted or established by the director pursuant to Section 14979.

(b) Notwithstanding subdivision (a), the director shall be responsible for the enforcement of this chapter and for the establishment of enforcement procedures.

SEC. 6. Section 14979 is added to the Food and Agricultural Code, to read:

14979. (a) The director shall adopt regulations to be used by the board or other entity in administering this chapter. The regulations shall include, but not be limited to, contracts for analytical services with commercial laboratories and for any additional services.

(b) The director shall establish procedures to be used by the board or other entity in administering this chapter. The procedures shall include, but not be limited to, all of the following:

(1) Employment, training, supervision, and compensation of inspectors and other personnel.

(2) Allocation of funds and use of existing equipment and acquisition of equipment.

(3) Collection of inspection tonnage tax.

(c) This section is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 502

An act to amend Sections 443.33 and 1276.5 of the Health and Safety Code, to amend Section 14110.7 of, and to add Article 3.8 (commencing with Section 14126) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 10, 1990.]

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

SECTION 1. Section 443.33 of the Health and Safety Code is amended to read:

443.33. (a) (1) Hospitals shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 443.31 with the office within four months after the close of the hospital's fiscal year except as provided in paragraph (2).

(2) If a licensee relinquishes the facility license or puts the facility license in suspense, the last day of active licensure shall be deemed a fiscal year end.

(3) The office shall make the reports filed pursuant to this subdivision available no later than three months after they were filed.

(b) (1) Skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, and congregate living facilities, including nursing facilities certified by the state department to participate in the Medi-Cal program, shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 443.31 with the office within four months after the close of the facility's fiscal year, except as provided in paragraph (2).

(2) (A) If a licensee relinquishes the facility license or puts the facility licensure in suspense, the last day of active licensure shall be deemed a fiscal year end.

(B) If a fiscal year end is created because the facility license is relinquished or put in suspense, the facility shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 443.31 within two months after the last day of active licensure.

(3) The office shall make the reports filed pursuant to paragraph (1) available not later than three months after they are filed.

(4) (A) Effective for fiscal years ending on or after December 31, 1991, the reports required by subdivisions (a), (b), (c), and (d) of Section 443.31 shall be filed with the office by electronic media, as determined by the office.

(B) Congregate living health facilities are exempt from the electronic media reporting requirements of subparagraph (A).

(c) The reports required by subdivision (g) of Section 443.31 shall

be filed semiannually by each hospital or its designee not later than six months after the end of each semiannual period, commencing six months after January 1, 1986, and shall be available from the office no later than six months after the date upon which the report was filed.

(d) The reports referred to in paragraph (2) of subdivision (a) of Section 443.30 shall be filed with the office on the dates required by applicable law and shall be available from the office no later than six months after the date upon which the report was filed.

(e) The office shall make available at cost, to all interested parties, a hard copy of any health facility report referred to in subdivision (a), (b), (c), (d), or (g) of Section 443.31 and in addition to hard copies, shall make available at cost, computer tapes of the health facility reports referred to in subdivision (a), (b), (c), (d), or (g) of Section 443.31, unless the office determines that an individual patient's rights of confidentiality would be violated.

SEC. 2. Section 1276.5 of the Health and Safety Code is amended to read:

1276.5. (a) The department shall adopt regulations setting forth the minimum number of equivalent nursing hours per patient required in skilled nursing and intermediate care facilities, subject to the specific requirements of Section 14110.7 of the Welfare and Institutions Code.

(b) (1) For the purposes of this section "nursing hours" means the number of hours of work performed per patient day by aides, nursing assistants, or orderlies plus two times the number of hours worked per patient day by, registered nurses and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities providing care for the developmentally disabled or mentally disordered, licensed psychiatric technicians who perform direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital.

(2) Concurrent with implementation of the first year of rates established under the Medi-Cal Long Term Care Reimbursement Act of 1990 (Article 3.8 (commencing with Section 14126) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code), for the purposes of this section "nursing hours" means the number of hours of work performed per patient day by aides, nursing assistants, registered nurses, and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities providing care for the developmentally disabled or mentally disordered, licensed psychiatric technicians who performed direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital.

(c) Notwithstanding Section 1276, the department shall require

the utilization of a registered nurse at all times if the department determines that the services of a skilled nursing and intermediate care facility require the utilization of a registered nurse.

(d) Except as otherwise provided by law, the administrator of an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing shall be either a licensed nursing home administrator or a qualified mental retardation professional.

SEC. 3. Section 14110.7 of the Welfare and Institutions Code is amended to read:

14110.7. (a) The director shall adopt regulations increasing the minimum number of equivalent nursing hours per patient required in skilled nursing facilities to 3.0, in skilled nursing facilities with special treatment programs to 2.3, in intermediate care facilities to 1.1, and in intermediate care facilities/developmentally disabled to 2.7.

(b) (1) The director shall adopt regulations which shall establish the minimum number of equivalent nursing hours per patient required in the following, for the first year of implementation of the first year of rates established pursuant to this article:

(A) 2.6 hours for skilled nursing facilities.

(B) 1.9 hours for skilled nursing facilities with special treatment programs.

(C) 0.9 hours for intermediate care facilities.

(D) 2.2 hours for intermediate care facilities/developmentally disabled.

(2) The staffing standards established by paragraph (1) shall become effective concurrently with the establishment of the first reimbursement rates under this article.

(3) The director shall adopt regulations which establish the minimum number of equivalent nursing hours per patient required in skilled nursing facilities at 2.7 for the second year of implementation of rates established pursuant to this article.

(c) (1) The Legislature finds and declares all of the following:

(A) The one-year transition phase from 2.6 to 2.7 equivalent nursing hours allows ample time to restructure staffing.

(B) The 4 percent augmentation to reimburse for direct patient care, as defined in paragraph (2) of subdivision (b) of Section 14126.60, provides funds to cover additional expenses, if any, incurred by facilities to implement this staffing standard.

(2) Subject to the appropriation of sufficient funds, the department may adopt regulations to increase the minimum number of equivalent nursing hours required of facilities subject to this section per patient beyond 2.7 nursing hours per patient day.

(d) (1) The department shall identify those skilled nursing facilities that are in compliance with the 3.0 minimum double nursing hour standards, as defined in subdivision (a) of Section 1276.5 of the Health and Safety Code, but have actual staffing ratios below 2.5, as of July 1, 1990, and shall not enforce the 2.7 equivalent nursing

hours with respect to those facilities until the third year of implementation of the rates established under this article.

(2) The department shall periodically review facilities which have actual staffing ratios described in paragraph (1) to ensure that they are making sufficient progress toward 2.7 hours.

SEC. 4. Article 3.8 (commencing with Section 14126) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.8. Medi-Cal Long-Term Care Reimbursement Act of 1990

14126. This article shall be known as the Medi-Cal Long-Term Care Reimbursement Act of 1990.

14126.05. The Legislature finds and declares all of the following:

(a) Financing long-term health care has become a significant cost to the state with the potential for the cost of care in long-term care facilities to increase faster than other Medi-Cal program costs due to an increase in the aging population, competition for qualified labor, and increased demand for quality care.

(b) There is increasing recognition that the method of Medi-Cal reimbursement for long-term health care facilities can be designed to promote quality care, patient access to appropriate services, and administrative efficiency and cost containment when appropriate.

(c) The current system of reimbursement methodology for long-term care facilities encourages providers to discriminate on admissions, and overemphasizes cost containment and administrative simplicity at the expense of quality care and patient access to appropriate services.

(d) The current payment structure requires additional incentives to provide access and quality services to Medi-Cal recipients.

(e) The purpose of this article is to establish the principles of a new reimbursement methodology for long-term care facilities that promotes availability and access to appropriate services, recognizes money spent on patient care, and promotes quality of care.

(f) In addition, it is the intent of the Legislature that funds expended to implement this section be used by long-term health care facilities participating in Medi-Cal to improve patient care by staffing at levels which meet patients' needs and to ensure that these facilities have the needed resources and staff to provide quality care to Medi-Cal patients.

14126.10. (a) The department shall not enforce, through administrative action, nor shall facilities be expected to implement, the federal Omnibus Reconciliation Act of 1987 (P.L. 100-203), except pursuant to this article and those provisions of current state law and regulations operative on January 1, 1991, unless the Legislature provides funding sufficient to provide a prospective adjustment in Medi-Cal rates in an amount equal to the cost of implementation any new requirements for that purpose.

14126.15. The reimbursement methodology described in this article applies to all of the following:

(a) Freestanding nursing facilities licensed as any of the following:

(1) Skilled nursing facilities.

(2) Intermediate care facilities.

(b) Intermediate care facilities for the developmentally disabled.

14126.20. (a) The department shall develop the reimbursement methodology for intermediate care facilities for the developmentally disabled-habilitative, and intermediate care facilities for the developmentally disabled-nursing, as defined in Section 1250 of the Health and Safety Code, in consultation with the State Department of Developmental Services, provider associations, labor, and consumer advocates.

(b) (1) The department shall develop the methodology required by subdivision (a) within two years from the effective date of this article. The methodology shall be prospective.

(2) The department shall use the methodology developed pursuant to paragraph (1) at least on an annual basis to establish Medi-Cal reimbursement rates for all designated facilities.

14126.23. The director may adopt regulations identifying the manner of payment for equipment, supplies, and services necessary to provide the designated level of care in long-term care facilities.

14126.25. (a) The department shall establish rates pursuant to this article on the basis of facility cost data reported in the integrated long-term care disclosure and Medi-Cal cost report required by Section 443.30 of the Health and Safety Code.

(b) (1) The department and the Office of Statewide Health Planning and Development, in consultation with nursing home labor, patient rights advocates, and provider associations shall make changes to the disclosure and cost report necessary to implement this article.

(2) In addition to changes to the disclsoure and cost reports identified in paragraph (1) of subdivision (b), raw food costs shall be separately reported on the cost reports.

(c) The process of making those changes shall be exempt from the public hearing process.

(d) Facilities shall submit annual reports representing a fiscal reporting period, including any partial period report required by law.

(e) The facilities shall submit the reports required by subdivision (d) pursuant to Section 443.33 of the Health and Safety Code.

(f) The Office of Statewide Health Planning and Development shall develop any procedures necessary to phase in this section.

(g) (1) Facilities providing intermediate care-habilitative and intermediate care-nursing services shall submit cost reports to the department within four months after the close of the filing organization's fiscal year.

(2) Cost reports required by paragraph (1) shall be filed by electronic media, as determined by the department. This filing

period shall be implemented during a transition period, detemined by the department in consultation with the State Department of Developmental Services and provider associations.

(3) The department shall establish reimbursement rates August 1 of each year on the basis of cost data submitted by facilities required to report under this section for the most recent reporting period available from the Office of Statewide Health Planning, as defined under the state medicaid plan.

14126.30. (a) The department shall conduct financial audits of cost reports at the facility or any other suitable location, including home offices.

(b) The department shall audit the facilities a minimum of once every three years, except where it is statistically appropriate to annually audit the entire peer group of facilities.

(c) (1) During the course of audits under this section, prior unaudited reports shall be included in the scope of the audit to determine if costs have been properly reported.

(2) The department shall adjust all expenses included in a cost report which are not properly allocated.

(d) The department may audit facilities at times other than those specified in this section to ensure program integrity.

(e) (1) The department shall use the results of audits performed pursuant to this section, and the results of any federal audits, to determine an adjustment to each facility's reported costs prior to application of the methodology defined in this article.

(2) If any facility is overpaid or underpaid as a result of an inaccurate report, the department shall adjust the reimbursement of the facility prospectively over the intervening years between audits by an amount equal to the amount of overpayment or underpayment which resulted from the inaccuarte reporting.

(f) Any audit conducted pursuant to this section shall satisfy all audit requirements of Sections 14110.6 and 14110.7.

(g) The department shall not implement the audit requirements contained in subdivisions (c) and (d) of Section 1410.6, and Sections 1268.5 and 1338 of the Health and Safety Code in the implementation of the first-year rates established pursuant to this article.

14126.35. Upon a change in facility licensee, the entity relinquishing the license shall create an escrow account which establishes a demand notice in the name of the department. The demand notice shall be in an amount equal to the facility's potential direct patient care overpayment, calculated as the direct care component of the facility's current reimbursement rate times the number of annual Medi-Cal patient days reported in the facility's latest filed cost report times 10 percent times the number of years since the facility's last audit, or if the facility has never been audited under the new reimbursement methodology, the number of years from the date the changes in reimbursement were implemented. The instructions pertinent to these funds shall require that the funds be deposited in an interest-bearing account and disbursed only upon

the advice of the director. A new license shall not be issued by the department until it has received a copy of escrow instructions to this effect.

14126.40. (a) To facilitate expeditious review by the department, an application for a new license shall include an estimated date of actual sale.

(b) A copy of the application for a new license shall be submitted to the Office of Statewide Health Planning and Development.

(c) The previous licensee of the facility shall send the department a copy of the final reports submitted to the Office of Statewide Health Planning and Development pursuant to Section 443.31, and subdivision (b) of Section 443.33 of the Health and Safety Code.

(d) If the director determines that a closeout audit of the facility is appropriate, the department shall conduct and complete the audit and issue a report within 60 days after a complete and usable cost report has been filed with the office and received by the department in accordance with subdivision (c).

14126.45. (a) Concurrent with the issuance of the closeout audit, the director shall authorize the return of the escrow funds, plus any accrued interest, to the previous licensee of the facility, unless the audit identifies an overpayment. In such a case, the director shall authorize the disbursement of all or part of the escrow funds to the department.

(b) The amount of funds disbursed to the department shall not exceed the actual amount of overpayment identified in the audit. If appealed by the previous licensee of the facility, any disbursement of these funds shall be delayed until final adjudication of the appeal process.

14126.50. Facilities and previous licensees of facilities may appeal the result of any department audit pursuant to this article, as provided in regulations adopted by the department.

14126.55. (a) Each new facility shall receive the average rate, weighted by Medi-Cal days, for its peer group. The department shall implement this method until a full 12 months of usable cost report data are available to develop a rate under this article.

(b) New licensees, as described in Section 14126.35, may petition the department for a higher direct patient care rate if the rate paid to the previous licensee was below the average rate, weighted by Medi-Cal days, for its peer group.

(c) The department may adjust the peer group assignment described in paragraph (2) of subdivision (b) of Section 14126.60 where it is necessary to accommodate petitions made pursuant to subdivision (b).

14126.60. (a) The reimbursement rate paid each facility shall be prospective and reflect the sum of the following components:

(1) Direct patient care labor.

(2) Capital-related assets.

(3) All other costs.

(b) (1) (A) (i) The direct patient care labor component

includes wages, salaries, and fringe benefits, except workers' compensation and state unemployment insurance benefits, of registered nurses, licensed vocational nurses, nurse assistants, geriatric nurse practitioners, social workers, activity program leaders, and psychiatric technicians, who are employees of the facility and who provide direct patient care.

(ii) For purposes of this subparagraph, "activity program leaders" means the same as defined in Section 72385 of Title 22 of the California Code of Regulations.

(iii) For purposes of this subparagraph, "social workers" means the same as defined in Section 72105 of Title 22 of the California Code of Regulations.

(B) (i) The department shall update direct patient care labor costs by an economic indicator developed by the department that is representative of state long-term care labor cost trends. Any change in the economic indicator used by the department shall not be based solely on achieving cost savings.

(ii) The department shall project the costs from the midpoint of a facility fiscal reporting period for the most recent fiscal year available from the Office of Statewide Health Planning, as defined in the state medicaid plan, to the midpoint of the state's rate year.

(C) The direct patient care labor component shall also include the cost of payment to nurse registries or temporary help agencies for salary and wages for temporary employees who provide direct patient care, not to exceed the average hourly wage and fringe benefit cost of comparable employees in the facility. The remainder of the costs of payment to nurse registries or temporary help agencies not attributable to this section shall be included in the other component as recognized in subdivision (d).

(2) (A) Payment for routine direct patient care labor shall be tiered to recognize the amount of money spent by the facility for the direct patient care component, geographical labor markets, and bed size.

(B) Facilities whose direct patient care labor costs fall within a tier shall be reimbursed at the upper payment limit of that tier.

(C) An amount of 4 percent above the payment level established pursuant to paragraph (A) shall be added to the rate in order to provide funds that may be used to increase wages or hire additional direct patient care staff.

(D) Total payment for direct patient care labor shall be recognized up to, but not to exceed, the 75th percentile of the projected costs for any peer group, but not lower than, the 25th statewide percentile with intermediate tiers, as determined appropriate by the department to meet this intent of the act adding this section.

(3) At a minimum of every five years, the department shall perform a study of current geographical labor market conditions in order to establish logical peer groups and determine appropriate facility placement.

(c) (1) The capital-related component of the reimbursement rate shall recognize capital-related assets through a fair rental value system initially based on a representative current statewide market value of twenty-seven thousand five hundred dollars ($27,500). Subsequent rates established in accordance with paragraph (2) may include consideration of regional market value if substantiated by data. This component shall represent leases, mortgage interest, depreciation of real and personal property and equipment, and a return on investment. The computation of the capital-related component shall be based upon 100 percent occupancy, unless the facility's Medi-Cal census meets or exceeds 70 percent, in which case the occupancy rate shall be established at 95 percent, unless the statewide occupancy rate exceeds 95 percent, at which time the adjustment shall be the actual statewide occupancy rate of the preceding year.

(2) (A) Property values shall be updated annually, at the rate of 2 percent per year.

(B) (i) The department shall, at a minimum of every five years, review property values, perform appraisals if necessary, and rebase the capital assets component.

(ii) To assist the department in making its periodic reviews of property values, the records of all changes in ownership shall be reported to the department containing at a minimum the new owner, the sale price of the facility, a copy of the appraisal from the lender, the amount and interest rate of the loan.

(C) The department shall adopt the necessary regulations to accommodate the reporting and collecting of this data.

(3) To compute the payment for capital-related assests under this subdivision, a fixed rate of return of 7 percent shall be applied to the established representative value of the properties.

(4) (A) The department shall include a disproportionate share provision which incrementally increases the rate of return for those facilities which have a high Medi-Cal census, as described in subparagraph (B).

(B) The incremental increase in the disproportionate share provision shall be as follows:

(i) One-quarter of 1 percent if the Medi-Cal census exceeds 70 percent of the total licensed beds in service.

(ii) One-half of 1 percent if the Medi-Cal census exceeds 80 percent of the total licensed beds in service.

(iii) Three-quarters of 1 percent if the Medi-Cal census exceeds 90 percent of the total licensed beds in service.

(5) The fair rental value of a bed established pursuant to this section shall not be changed during the Medi-Cal rate year unless specifically provided for in the state plan.

(d) (1) All of the following costs are included in the other component:

(A) Salary, wages, and fringe benefits for dietary, housekeeping, laundry services, maintenance, operations, administration and any

other labor, including all labor contracted to provide dietary, housekeeping, and laundry services.

(B) Supplies, materials, raw food, and property taxes and insurance.

(C) Workers' compensation and state unemployment insurance for those employees included in the direct patient component.

(D) The cost of payment made to nurse registries or temporary help agencies which was not included in the direct patient component.

(E) All other allowable routine costs not otherwise specified in this section.

(2) (A) Costs included in the other component shall be established on a prospective basis, peer grouped, as appropriate, by bed size and geographical area, updated on the basis of economic indicators developed by the department that are representative of state long-term care costs, and reimbursed at the median of each peer group established for this purpose.

(B) The median of wages, salaries, and fringe benefits, except for workers' compensation and state unemployment insurance benefits, of dietary, housekeeping and laundry staff who are regular employees of the facility and whose sole function is to perform these duties, shall be computed separately from the median of the remaining costs included in this component.

(C) The first year after the effective date of this article, all facilities shall receive the prospective median plus 3 percent for the component described in subparagraph (B). Each year thereafter, the department shall review the expenditures by facility for dietary, housekeeping, and laundry. Facilities which have spent up to the 40th percentile of the dietary, housekeeping, and laundry component, as described in subparagraph (B), of the previous year's rate study computations shall receive the prospective median. Facilities which have spent over the 40th percentile and up to and including the 50th percentile, shall receive the prospective median plus at least 2 percent. Facilities which have spent over the 50th percentile shall receive the prospective median plus at least 3 percent.

(D) Reimbursement for this component shall be the sum of the computation described in paragraph (C) and the median of the remaining costs included in this component.

14126.65. (a) (1) The department shall implement the reimbursement methodology contained in this article for the 1991–92 Medi-Cal rate year, effective August 1, 1991.

(2) Pending the availability of revised cost report data, the department shall make reasonable assumptions and estimates which reflect existing data sources and rate development methods, to place appropriate costs in each reimbursement component.

(b) For subsequent rate years the department shall continue to make similar assumptions and estimates until all facilities have submitted complete cost reports, as defined in paragraph (1) of

subdivision (b) of Section 14126.25 and there is a full data base available.

(c) During the first year under the methodology established pursuant to this article, facilities shall be paid the higher of the reimbursement rate generated under this article or the reimbursement rate existing on July 1, 1991.

(d) During the second year under the new methodology, facilities shall be paid the higher of either of the following:

(1) The reimbursement rate generated under this article.

(2) The average of the reimbursement rate generated under this article and the rate on July 1, 1991.

(e) Commencing with the third rate year under the new methodology, all facilities shall receive reimbursement rates established under this article.

14126.70. (a) By May 1, 1991, the department shall provide information and detail on the assumptions being used in the rate development process for the upcoming Medi-Cal rate year, and any actual or proposed Medi-Cal state plan amendments, to the appropriate policy and fiscal committees in each house of the Legislature and the Joint Legislative Budget Committee.

(b) The Legislative Analyst shall comment annually on the implementation of this article, commencing with the 1992–93 fiscal year budget report, until full implementation of this article, as determined by the department.

14126.75. (a) The department shall consult with provider associations, consumer advocates, and labor organization representatives regarding the implementation of the reimbursement methodology established by this article.

(b) The department shall consult annually with those entities identified in subdivision (a) regarding the assumptions being used in the rate development process for the following Medi-Cal rate year.

14126.80. (a) Commencing December 1, 1992, and ending December 1, 1995, the Auditor General shall annually report to the appropriate policy and fiscal committees of the Legislature on all of the following:

(1) Changes in wages, benefits, employee turnover, and employee hours per patient day for all of the following classes of employees of freestanding nursing facilities:

(A) Nurses' assistants.

(B) Licensed vocational nurses.

(C) Registered nurses.

(D) Dietary, housekeeping, and laundry personnel.

(2) To the extent possible, the reported data shall relate changes in wages, benefits, and staffing levels to the percentage of Medi-Cal patients in the facility; changes in discharge patterns; changes in distribution of admissions by payor; changes in Medi-Cal census; and other specific quality indicators developed with input from provider associations, consumer advocates, labor organizations, policy and fiscal committees of the Legislature, the Office of Statewide Health

Planning and Development, and the State Department of Health Services.

(3) The first report shall furnish base year data specified in paragraphs (1) and (2) for the period from August 1, 1990, to July 31, 1991, and compare that base year data with data for the period from August 1, 1991, to July 31, 1992. Subsequent annual reports shall update the data and compare that data with base year data and data of the prior year.

(4) The Auditor General shall contract for data collection and analysis. It is the intent of the Legislature that the Auditor General require the use of random sample techniques to produce statistically reliable findings which are aggregated for pertinent facility reimbursement or peer groups, or both.

(5) The reported data shall allow for the impact of other variables such as changes in labor market conditions and changes in federal or state laws, rules, and regulations on facility performance measures.

(b) Commencing December 1, 1996, the department shall annually submit data as described in subdivision (a) to the appropriate fiscal and policy committees of the Legislature. To the extent possible, the department may use cost report and other data available from existing sources to meet this requirement.

(c) The resources necessary to implement this section shall be included in the submissions of the affected state agencies for the preparation of the Governor's budget.

SEC. 5. The State Department of Health Services shall utilize funds appropriated for the purposes of this act through the annual budget process.

SEC. 6. (a) (1) The State Department of Health Services shall secure any necessary federal approvals of the state medicaid plan revisions pursuant to the act.

(2) The State Department of Health Services shall submit the state plan amendments to implement this act to the federal government by September 30, 1991.

(b) The State Department of Health Services, shall, upon implementation of the changes in reimbursement under Article 3.8 (commencing with Section 14126) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, comply with Sections 11346.4 to 11346.8, inclusive, of the Government Code, and shall submit its proposal to the fiscal and appropriate policy committees in both the Senate and the Assembly for their review and comment.

SEC. 7. (a) The State Department of Health Services shall develop a methodology designed to maintain the current relationship between rates paid to skilled nursing facilities and skilled nursing facilities with special treatment programs which contract with the Department of Mental Health.

(b) The annual rate adjustments for skilled nursing facilities with special treatment programs shall be included in the appropriation for long-term care funding.

SEC. 8. It is the intent of the Legislature that the implementation

of this act in the 1991–92 fiscal year shall result in a material improvement in the Medi-Cal rates paid to facilities over and above any other rate increases required by routine annual rate studies.

SEC. 9. (a) The department shall conduct a survey of long-term care patients which considers patient acuity and resource needs to determine if existing levels of care provide adequate access and appropriate care for long-term care patients.

(b) By April 1, 1991, the State Department of Health Services shall provide the results of the study, including information regarding the relative staff resource need for the levels of care identified by the survey, to the appropriate policy and fiscal committees of the Legislature.

(c) If the study required by subdivision (b) demonstrates a need for modifications to the existing levels of care, the department shall provide a discussion of alternatives for modifying levels of care with the fiscal impact, if any, of each alternative.

SEC. 10. (a) It is the intent of the Legislature to avoid additional expenditures for implementation of both this act and the federal Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) in a period of very limited state resources.

(b) The Legislature finds and declares that with implementation of this act the state is in substantial compliance with the intent of the federal Omnibus Budget Reconciliation Act of 1987.

(c) (1) No later than October 1, 1991, the State Department of Health Services, after substantial consultation with providers, labor, and consumer advocates, shall submit a report to the appropriate policy and fiscal committees of the Legislature, identifying additional quality of care concerns, patients rights issues, and if there are sufficient incentives to ensure adequate bed access in the future.

(2) The State Department of Health Services shall provide estimates of those items which appear to result in additional cost, and a projected timeline for completing implementation of this act.

SEC. 11. (a) The State Department of Health Services shall not implement this act if either of the following occur:

(1) The federal government does not approve its implementation through a waiver or state plan approval in the 1990–91 or 1991–92 fiscal year.

(2) Any court determines in the 1990–91 or 1991–92 fiscal year that the provisions of this act, in addition to current state statutes and regulations regarding standards for long-term care, do not comply with the federal Omnibus Budget Reconciliation Act of 1987 and orders the state to take action which would increase the expenditure of state money from the General Fund.

(b) If this act is not implemented due to the implementation of this section, the State Department of Health Services shall establish Medi-Cal rates paid affected providers, retroactively to August 1, 1991, to those levels required under the state medicaid plan in existence on July 1, 1990, including any annual rate adjustment pursuant thereto.

SEC. 12. The sum of three hundred seventy thousand dollars ($370,000) is hereby appropriated from the General Fund to the State Department of Health Services to implement this act. It is the intent of the Legislature that federal matching funds be made available for this purpose.

SEC. 13. Regulations adopted to implement this act shall be adopted 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. The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted to implement this act shall not be subject to the review or approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

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:

The Legislature has determined that the quality of care in the state's long-term health care facilities is directly related to the level of Medi-Cal reimbursement provided to participating Medicaid providers. In order to ensure the continued health and safety of California's elderly and infirm, it is necessary that this act take effect immediately.

CHAPTER 503

An act to amend Section 6872 of the Business and Professions Code, relating to collection agencies.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 10, 1990]

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

SECTION 1. Section 6872 of the Business and Professions Code is amended to read:

6872. (a) The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a collection agency without first having obtained a license pursuant to this chapter, or carries on that business after the revocation or expiration of any license or during the period of suspension of any license, may, on application of the director, or any person licensed under this act or association representing those licensees or any member of the general public, issue an injunction or other appropriate order

restraining such conduct and may impose civil fines not exceeding ten thousand dollars ($10,000).

(b) A proceeding to impose the above fine and enjoin the unlicensed operation of a collection agency business may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney in any city or city and county, or with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor, for the jurisdiction in which the unlicensed activity has occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney in a city and county, the penalty collected shall be paid to the treasurer of the city and county in which the judgment is entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Collection Agency Fund.

(c) 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 there shall be no requirement to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

CHAPTER 504

An act to repeal and add Chapter 5 (commencing with Section 14501) of Division 7 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 10, 1990]

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

SECTION 1. Chapter 5 (commencing with Section 14501) of Division 7 of the Food and Agricultural Code is repealed.

SEC. 2. Chapter 5 (commencing with Section 14501) is added to Division 7 of the Food and Agricultural Code, to read:

CHAPTER 5. FERTILIZING MATERIALS

Article 1. General Provisions

14501. The Legislature finds and declares that it is the intent of this chapter to do all of the following:

(a) To promote the distribution of effective and safe fertilizing materials essential for the production of food and fiber.

(b) To provide assurance to the consumer of commercial fertilizers, agricultural minerals, packaged soil amendments, and auxiliary soil and plant substances that the product purchased is properly identified, and to provide assurance of the validity of the quality and quantity represented by the manufacturer of these products.

(c) To provide funds for the administration and enforcement of this chapter.

14502. The director shall enforce this chapter and adopt and enforce such regulations relating to the manufacture, guaranteeing, labeling, and distribution of, the manner of reporting tonnage for, and making inspection tonnage fee payments upon, fertilizing materials as the director determines necessary to carry out this chapter. A copy of those regulations shall be mailed promptly upon adoption to each person who is licensed pursuant to this chapter. The failure of any licensee to receive a copy of the regulations is not a defense to a violation of the regulations.

14503. Any money which is received by the director pursuant to this chapter shall be paid into the State Treasury to the credit of the Department of Food and Agriculture Fund, to be expended solely for the administration and enforcement of this chapter.

14504. The director shall prepare an annual statement of the operating expenditures and revenue related to this chapter which shall be presented to the board for review as soon as possible following the termination of the fiscal year. A copy of this statement shall be made available to any interested person upon request.

14505. Agricultural products derived from municipal sewage sludge shall be regulated as a fertilizing material pursuant to this chapter, and when used in general commerce, these products are not subject to regulation as a hazardous substance pursuant to Section 28744 of the Health and Safety Code and are not subject to regulation as a waste under Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

Article 2. Definitions

14511. "Agricultural liming materials" are agricultural minerals composed of calcium or magnesium compounds, or both, which are capable of neutralizing soil acidity and which are distributed in this state for that purpose.

14512. "Agricultural mineral" means any substance with nitrogen (N), available phosphoric acid (P_2O_5), and soluble potash (K_2O), singly or in combination, in amounts less than 5 percent which is distributed for farm use, or any substance only containing recognized essential secondary nutrients or micronutrients in amounts equal or greater than minimum amounts specified by the director, by regulation, and distributed in this state as a source of

these nutrients for the purpose of promoting plant growth. It shall include gypsum, liming materials, manure, wood fly ash, sewage sludge not qualifying as commercial fertilizer, and captured dilute solutions.

14513. "Auxiliary soil and plant substance" means any chemical or biological substance or mixture of substances or device distributed in this state to be applied to soil, plants, or seeds for soil corrective purposes; or which is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants; or which is intended to produce any chemical, biochemical, biological, or physical change in soil; except that it shall not include commercial fertilizers, agricultural minerals, economic poisons, soil amendments, or manures. It shall include the following:

(a) Synthetic polyelectrolytes.

(b) Lignin or humus preparations.

(c) Wetting agents to promote water penetration.

(d) Bacterial inoculants.

(e) Microbial products, including genetically engineered microorganisms.

(f) Soil binding agents.

(g) Biotics.

(h) Any similar product intended to be used for influencing soils, plant growth, or crop or plant quality.

14514. "Biotics" means all materials for which claims are made relating to organisms, enzymes, or organism by-products.

14515. "Board" means the Fertilizer Inspection Advisory Board.

14516. "Brand" means any term, design, or trademark used in connection with a fertilizing material product.

14517. "Bulk material" means fertilizing materials distributed in nonpackaged form or in a container containing more than 50 kilograms or 110 pounds.

14518. "Business location" means any place where fertilizing materials are sold or stored for later sale, except storage of package materials on premises operated exclusively as a public warehouse.

14519. "Captured dilute solutions" means solutions that contain low levels of plant nutrients as a result of equipment rinsing and runoff.

14520. "Chelates" means compounds, usually organic, which can combine with a metal ion and form a ring structure between a portion of the chelating agent molecule and the metal.

14521. "Chelated plant nutrients" means compounds of metallic secondary nutrients and micronutrients with organic chelating agents which have the property of being available under pH conditions in which the nutrients normally form insoluble compounds.

14522. "Commercial fertilizer" means any substance which contains 5 percent or more of nitrogen (N), available phosphoric acid (P_2O_5), or soluble potash (K_2O), singly or collectively, which is

distributed in this state for promoting or stimulating plant growth. "Commercial fertilizer" includes both agricultural and specialty fertilizers. "Specialty fertilizers" may contain less than 5 percent nitrogen (N), available phosphoric acid (P_2O_5), or soluble potash (K_2O), singly or collectively.

14523. "Common carrier" means a company licensed with the Public Utilities Commission that hauls for hire.

14524. "Complex" means bonding which includes both of the following:

(a) "Natural organic complexes" means organic by-products of the wood pulp and other industries, such as the lignin sulfonates and polyflavinoids, that form complexes with metallic secondary nutrients and micronutrients. "Natural organic complexes" do not include synthetic chelates in that natural organic complex, generally known as the natural organic chelates which are polymers, for which the nature of the metallic bonding is not known.

(b) "Inorganic complexes" include inorganic cations which form coordinate chemical bonds with other inorganic cations, anions, or neutral molecules, such as where metal-ammonia complexes of zinc or ammonia are coordinately bonded to the metal cation, and which usually reacts differently than the metal alone in solutions, but dissociates in soil and reacts as the uncomplexed cation.

14525. "Compost" means a biologically stable material derived from the composting process.

14526. "Composting" means the biological decomposition of organic matter which inhibits pathogens, viable weed seeds, and odors. "Composting" may be accomplished by mixing and piling in a way as to promote aerobic or anaerobic decay, or both.

14527. "Derivation statement" means the sources of all guaranteed primary nutrients or secondary nutrients, or both, and micronutrients.

14528. "Discontinued manufacturing" means an auxiliary soil and plant substance, packaged agricultural mineral, packaged soil amendment, and specialty fertilizer that is no longer manufactured, but is still offered for sale.

14529. "Distribute" means to sell, offer, expose for sale, exchange, barter, or otherwise supply products for use in, or shipment within or into, this state.

14530. "Distributor" means any person who imports or consigns a fertilizing material or who offers for sale, sells, barters, or othewise supplies this product for use in, or shipment within or into, this state.

14531. "Experimental use" means any application of a fertilizing material which is not offered for sale, has no commercial value, and is for the sole purpose of obtaining scientific data.

14532. "Farm use" means that the material is used primarily for application to crops produced for commercial value.

14533. "Fertilizing material" means any commercial fertilizer, agricultural mineral, auxiliary soil and plant substance, or packaged soil amendment.

14534. "Fish emulsion" means fertilizing material from which the guaranteed nutrients are derived primarily from fish, which contains a minimum of 40 percent total solids from fish, and which may contain additional sources of nitrogen, available phosphoric acid, and soluble potash for standardization purposes or stabilization purposes, or for both purposes, that shall be included in the required guaranteed analysis and derivation statement.

14535. "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in the same terms, order, and percentage as the guaranteed analysis.

14536. "Guaranteed analysis" means the minimum percentage of primary or secondary plant nutrients or micronutrients, or both, claimed.

14537. (a) "Gypsum" means calcium sulfate dihydrate, a mineral used in the fertilizer industry as a source of calcium and sulfur which is also known as landplaster.

(b) "Phosphatic sulfate gypsum" means a by-product of calcium dihydrate from the manufacture of phosphoric acid, also known as phosphogypsum.

14538. "Hydroponics" means a system in which water soluble primary or secondary plant nutrients or micronutrients, or combination thereof, are placed in intimate contact with the plant's root system, being grown in a water or an inert supportive medium which supplies physical support for the roots but which does not add or subtract primary or secondary plant nutrients or micronutrients, or both.

14539. "Investigational allowance" means an allowance for variation inherent in the taking, preparation, and analysis of an official sample of fertilizing materials.

14540. "Label" means the display of all written, printed, or graphic matter on the immediate container of, or a statement, including the guaranteed analysis, accompanying fertilizing material.

14541. "Label guarantor" means the manufacturer's or person's name appearing on the label of a fertilizing material.

14542. "Labeling" means all written, printed, or graphic matter on, accompanying, or used in promoting the sale of any fertilizing material, including advertisements, brochures, posters, and television and radio announcements.

14543. "Licensee" means a person who has obtained a license pursuant to this chapter.

14544. "Manufacturer" means a person who produces, sells, or distributes a fertilizing material in this state that bears their company name on the label and is the guarantor.

14545. "Manure" means any substances composed primarily of animal excrement, plant remains, or mixtures of those substances.

14546. "Micronutrients" means boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, or zinc, alone or in any combination.

14547. "Mixed fertilizer" is a commercial fertilizer containing any combination or mixture of fertilizing materials.

14548. "Natural organic fertilizer" means materials derived from either plant or animal products containing one or more nutrients other than carbon, hydrogen, and oxygen, which are essential for plant growth, which may be subjected to biological degradation processes under normal conditions of aging, rainfall, sun-curing, air drying, composting, rotting, enzymatic, or anaerobic/aerobic bacterial action, or any combination of these, which shall not be mixed with synthetic materials or changed in any physical or chemical manner from their initial state except by physical manipulations such as drying, cooking, chopping, grinding, shredding, or pelleting.

14549. "Noncommercial use" means materials used primarily for application to lawns, shrubbery, flowers, trees, or where there is no crop for commercial value or economic purpose, excluding golf courses, cemeteries, and nurseries.

14550. "Official sample" means any sample of fertilizing material taken by an agent of the department and designated as "official" by the department.

14551. "Packaged" means a fertilizing material distributed in packaged form or in a container containing equal to or less than 50 kilograms or 110 pounds.

14552. "Packaged soil amendment" means any substance distributed for the purpose of promoting plant growth or improving the quality of crops by conditioning soils solely through physical means. It includes all of the following:

(a) Hay.

(b) Straw.

(c) Peat moss.

(d) Leaf mold.

(e) Sand.

(f) Wood products.

(g) Any product or mixture of products intended for use as a potting medium, planting mix, or soilless growing media.

(h) Manures sold without guarantees for plant nutrients.

(i) Any other substance or product which is intended for use solely because of its physical properties.

14553. "Percent or percentage" means percentage by weight.

14554. "Person" means individual, partnership, association, firm, or corporation who assumes responsibility for the product.

14555. "Plant" means any business location where fertilizing materials are manufactured, sold, or stored for later sale, except storage of packaged materials on premises operated exclusively as a public warehouse.

14556. "Primary plant nutrient" means nitrogen (N), available phosphoric acid (P_2O_5), or soluble potash (K_2O).

14557. "Provisional registration" means that under certain circumstances, a label for renewal on an auxiliary soil and plant

substance, packaged agricultural mineral, packaged soil amendment, or specialty fertilizer, alone or in any combination, may be registered for a limited period of time while labels are being corrected and reprinted.

14558. "Registrant" means any person who has registered a packaged agricultural mineral, auxiliary soil and plant substance, packaged soil amendment, or specialty fertilizer.

14559. "Secondary plant nutrient" means calcium, magnesium, or sulfur, alone or in any combination.

14560. "Sewage sludge" means the solid material resulting from the treatment of waste water of residential or municipal sewage systems.

14561. "Soil conditioners" means polyelectrolytes, such as complex vinyl and acrylic compounds and certain cellulose and lignin derivatives, which tend to agglomerate soil colloids and produce a crumb structure in the soil and increase the permeability of the soil to air and water and increase its resistance to crusting when it dries out.

14562. "Soilless growing medium" means a medium of an inorganic substance, such as sand or gravel, or in a soilless organic material such as sphagnum peat or pine bark, and periodically watered with a primary or secondary plant nutrient or micronutrient solution, or both.

14563. "Specialty fertilizer" means packaged commercial fertilizer labeled for home gardens, lawns, shrubbery, flowers, and other similar noncommercial uses. These products may contain less than 5 percent nitrogen (N), available phosphoric acid (P_2O_5), or soluble potash (K_2O), singly or collectively, detectable by chemical methods.

14564. "Ton" means a net weight of 2,000 pounds avoirdupois.

Article 3. Fertilizer Inspection Advisory Board

14581. There is, in the department, a Fertilizer Inspection Advisory Board consisting of nine persons appointed by the director, eight of whom shall be licensed under this chapter and subject to the payment of the inspection fee in accordance with this chapter, and one of whom shall be a public member. The members of the board shall receive no compensation, but are entitled to payment of necessary traveling expenses in accordance with the rules of the Department of Personnel Administration. These expenses shall be paid out of appropriations made to the department pursuant to this chapter.

14582. The term of office of a member of the board is three years. The initial board shall consist of, three members appointed for a term of three years, three members appointed for a term of two years, and three members appointed for a term of one year. Thereafter, appointments shall be for full three-year terms. Vacancies shall be filled for the duration of an unexpired term.

14583. The board shall be advisory to the director and may make recommendations on all matters pertaining to this chapter including, but not limited to, the inspection and enforcement program, annual budget, necessary fees to provide adequate inspection services, and regulations required to accomplish the purposes of this chapter.

14584. The board shall elect a chairperson and other officers as it deems advisable.

14585. The board shall meet at the call of the chairperson or the director, or at the request of any five members of the board. The board shall meet at least once a year.

Article 4. Licensing

14591. Every person who manufactures or distributes fertilizing materials shall, before he or she engages in the activity, obtain a license from the director, which shall be valid for two years, for each plant and business location which he or she operates, as required by the director, by regulation. However, a person who only distributes or who makes retail sales of packaged commercial fertilizers, soil amendments, or auxiliary soil and plant substances, alone or in any combination, which bear the registered label of another licensed person, is not required to obtain the license. The license fee shall not exceed two hundred dollars ($200). The director may, based on the findings and recommendation of the board, reduce the license fee to a lower rate which provides sufficient revenue to carry out this chapter.

14592. A violation of this article is an infraction punishable by a fine of not more than five hundred dollars ($500). A second or subsequent violation of this article is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000).

Article 5. Registration

14601. Each differing label, other than weight or package size, such as changes in the guaranteed analysis, derivation statement, or anything that implies a different product, for specialty fertilizer, packaged agricultural mineral, auxiliary soil and plant substance, and packaged soil amendment shall be registered as required by the director, by regulation. The registration fee shall not exceed two hundred dollars ($200) per product. The director may, based on the finding and recommendation of the board, reduce the registration fee to a lower rate which provides sufficient revenue to carry out this chapter. The director may require proof of labeling statements and other claims made for any specialty fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance, before the director registers any such product. As evidence of proof, the director may rely on experimental data, evaluations, or advice furnished by scientists, including scientists affiliated with the

University of California, and may accept or reject additional sources of proof in the evaluation of any agricultural mineral or auxiliary soil and plant substance. In all cases, experimental proof shall relate to conditions in California under which the product is intended for use.

The director, after hearing, may cancel the registration of, or refuse to register, any specialty fertilizer, agricultural mineral, soil amendment, or auxiliary soil and plant substance, which the director determines is detrimental or injurious to plants, animals, public safety, or the environment when it is applied as directed, which is known to be of little or no value for the purpose for which it is intended, or for which any false or misleading claim is made or implied. The director may cancel the registration of any product of any person who violates this chapter.

The proceedings to determine whether to cancel or refuse registration of any of those products shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part I of Division 3 of Title 2 of the Government Code. The director shall have all the powers which are granted pursuant to that Chapter 5.

14602. A violation of this article is an infraction punishable by a fine of not more than five hundred dollars ($500). A second or subsequent violation of this article is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000).

Article 6. Inspection Fees

14611. Each manufacturer, label guarantor, or registrant, whose name appears on the label, shall pay to the director an assessment not to exceed two mills per dollar of sales, for all sales of fertilizing materials. Each person licensed pursuant to Article 4 (commencing with Section 14591) shall pay to the director an assessment not to exceed two mills per dollar of sales, for all sales of bulk commercial fertilizers, agricultural minerals, or auxiliary soil and plant substance products to unlicensed purchasers in this state if the assessment was not paid pursuant to any other requirements of this section. The director may, based on the finding and recommendation of the board, reduce the mill tax assessment rate to a lower rate which provides sufficient revenue to carry out this chapter.

14612. Each licensee shall maintain in this state, or with the director's permission at another location, an accurate record of all transactions subject to assessment. These records shall be maintained for a period of not less than three years following the transaction and are subject to audit by the director.

14613. The payment required by Section 14611, together with a form containing information prescribed by the director, shall be made quarterly within one calendar month after March 31, June 30, September 30, and December 31 of each year, and that form shall be submitted on or before those dates even if no fertilizer materials are sold. For any delinquency in making the payment, or any deficiency

in payment, the director shall add a penalty of 15 percent to the delinquent payment. Any delinquency which is more than 90 days past due is a cause for cancellation of the license.

Article 7. Tonnage Reports

14621. The last licensee selling or distributing fertilizing material shall submit a tonnage report, on a form or a computer printout format approved by the director, containing information on shipments received or deliveries made during specified periods designated by the director.

14622. The director shall publish, at least annually, a tonnage report. The director shall distribute the report and may charge a fee to cover the actual cost of publishing and distributing the report.

Any information furnished to the director under this chapter shall not be disclosed in such a way as to divulge the business practices of any licensee.

14623. The tonnage report shall be submitted to the director not later than January 31 of each year. The director shall impose a penalty in the amount of two hundred dollars ($200) on any person who does not submit the report on or before January 31.

Article 8. Labels

14631. Every lot, parcel, or package of fertilizing material distributed into or within this state shall have attached to it, or the shipment shall be physically accompanied by, a label as required by the director, by regulation. The director may require proof of labeling statements and claims made for any commercial fertilizer. As evidence of proof, the director may rely on experimental data, evaluations, or advice furnished by scientists, including scientists affiliated with the University of California, and may accept or reject additional sources of proof. The director may cancel the approval of, or refuse to approve, a commercial fertilizer label if the director determines that adequate proof of label claims do not exist. The director, after hearing, may cancel the license of any person who distributes a commercial fertilizer with a label for which approval has been canceled or a label which has not been approved by the director.

14632. The sale or distribution of any lot, parcel, or package of fertilizing material without the label specified in Section 14631 or the regulations adopted pursuant to that section, is an infraction punishable by a fine of not more than two hundred fifty dollars ($250) if at least one notice of warning has been issued by the director for a prior violation within a 12-month period. A second or subsequent violation of this section within a 12-month period is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000).

Article 9. Inspection, Sampling, and Analysis

14641. The director shall have free access at reasonable times to all records, premises, or conveyances which are used in the manufacture, transportation, importation, distribution, storage, or application of any fertilizing material.

14642. The director shall, at the times and to the extent necessary for the enforcement of this chapter, do all of the following:

(a) Take samples of any substance.

(b) Make analyses or examinations of any substance.

(c) Conduct investigations concerning the use, sale, adulteration, or misbranding of any substance.

14643. In determining the percentage of component parts of any substance for the purpose of proper labeling, registration, or determining compliance with representations, all analyses shall be made according to a method determined by the director.

14644. The director shall publish, at least annually, the results of examinations or chemical analyses of official samples of commercial fertilizer and agricultural minerals, and any additional information the director deems necessary.

14645. The director may take a sample for analysis from any lot of fertilizing material which is in the possession of any producer, manufacturer, importer, agent, dealer, or user. The sample shall be taken pursuant to regulations adopted by the director.

14646. The director shall establish sampling procedures by regulation.

14647. Upon the analysis of a sample of fertilizing material, the director shall issue a report showing the findings and indicating that the product has met the guarantee or was found to be deficient. However the director, in determining whether any product is deficient in guarantee or misrepresented, may establish, by regulation, tolerances that provide allowances for variations that occur in the taking, preparation, and analysis of an official sample.

14648. In any action, civil or criminal, in any court in this state, a laboratory report from the director which states the results of any analysis, reported to be made pursuant to this chapter, shall be prima facie evidence of all of the following:

(a) That the sample which is described in the laboratory report was properly analyzed.

(b) That the sample was taken pursuant to this chapter.

(c) That the substances analyzed contained the component parts which are stated in the laboratory report.

(d) That the sample was taken from the lots, parcels, or packages which are described in the laboratory report.

Article 10. Violations

14651. (a) Unless otherwise specified in this chapter, any violation of this chapter, or the regulations adopted pursuant to this

chapter, is a misdemeanor which is punishable by a fine of not more than five hundred dollars ($500) for the first violation and not less than five hundred dollars ($500) for each subsequent violation.

(b) The director may, after hearing, refuse to issue or renew, or may suspend or revoke, a license or registration for any violation of this chapter or any regulation which is adopted pursuant to this chapter.

(c) Upon calling a hearing, the director shall hand deliver or mail a notice of the hearing to the licensee or registrant specifying the time and place of the hearing at least 10 days prior to the hearing. The hearing officer may do any of the following:

(1) Administer oaths and take testimony.

(2) Issue subpoenas requiring the attendance of the licensee, registrant, or witnesses, together with books, records, memoranda, papers, and all other documents that may be pertinent to the case.

(3) Compel from the licensee or registrant and any witness the disclosure of all facts known to him or her regarding the case. In no instance shall any employee of the Feed, Fertilizer, and Livestock Drugs Branch serve as the hearing officer in any hearing conducted pursuant to this section.

(d) Any prson who is denied a license, whose license is not renewed, or whose license is suspended or revoked pursuant to this section may appeal to the director.

14652. It is unlawful for any person to manufacture or distribute in this state any fertilizing material without complying with this chapter or the regulations adopted pursuant to this chapter.

14653. The director may seize and hold any lot of fertilizing material which he or she has reasonable cause to believe is in violation of this chapter or the regulations adopted pursuant to this chapter.

14654. If the director seizes any lot of fertilizing material, he or she shall immediately issue a hold order to the person that has control of that material. The director may affix to that lot or package of the material a warning tag which states that the lot is subject to a hold order.

14655. (a) Any lot of fertilizing material for which a hold order or notice is issued shall be held by the person having control of the material and shall not be distributed or moved except under the specific directions of the director, pending final disposition pursuant to this chapter. This does not prevent the person who has control of the material from inspecting any seized material or from taking a reasonable sample for evidence while in the presence of a person designated by the director.

(b) The movement, distribution, or sale of all or part of any product that has been quarantined by the director, unless the movement, distribution, or sale has the prior approval of the director, is a misdemeanor punishable by a fine of not more than five hundred dollars ($500). A second or subsequent violation of this subdivision is a misdemeanor punishable by a fine of not less than one thousand

dollars ($1,000).

14656. Upon demand of the person who has control of the seized fertilizing material, and within 10 days of sampling by the director, a subsample shall be returned from the state laboratory to the person in control of the fertilizing material.

14657. If the seized and held lot, as determined by the director's analysis, is not in violation of this chapter, the director shall immediately release the seized and held lot and remove the hold order.

14658. If the seized and held lot is found to be in violation of this chapter, the director shall take either of the following actions:

(a) Continue to hold the lot until such time as the requirements of this chapter have been complied with, at which time the lot shall be released.

(b) Issue orders for the disposal of the lot in a manner specified by the director.

14659. The person who has control of a seized or held lot that is found to be in violation of this chapter may appeal the result of the analysis to the director, in writing, within 15 days of receiving the notice of violation. Upon receipt of that appeal, the director shall take a further sample of the lot in question for analysis. The cost of sampling and analysis shall be at the expense of the person who requests the further sample. The findings of the analysis on appeal shall be conclusive.

14660. The authority for the issuance of citations is limited to the violations of Sections 14591, 14601, 14631, 14651, and 14655. The director shall adopt procedures for the issuance of citations and penalties, upon the recommendation of the board. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the procedures adopted by the director pursuant to this section.

Article 11. Procedure for Prosecution

14671. In addition to the remedies provided in this chapter, the department may bring an action in superior court and the court may grant a temporary or permanent injunction restraining any person from violating this chapter or the regulations adopted pursuant to this chapter. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The department shall not, however, be required to allege facts necessary to show or tending to show irreparable damage or loss. The court may require any acts or course of conduct necessary to effectuate the purposes of this chapter.

14672. Nothing in this chapter requires the director to report for prosecution or to institute injunctive proceedings for any minor violation of this chapter whenever the director believes that the public interest would be adequately served by a suitable written

notice of warning and compliance with the notice.

Article 12. Misbranding and Adulteration

14681. No person shall distribute misbranded fertilizing materials. A fertilizing material shall be deemed to be misbranded under any of the following conditions:

(a) If its labeling is false or misleading in any particular.

(b) If it is distributed under the name of another fertilizing material.

(c) If it is not labeled as required by regulations adopted pursuant to this chapter.

(d) If it purports to be, or is represented as, a fertilizing material, or is represented as containing a primary or secondary plant nutrient or micronutrients, or both, unless the plant nutrients conform to the definition of identity, if any, prescribed by regulation. In adopting these regulations, due regard shall be given to commonly accepted definitions and official fertilizer terms such as those prescribed by the Association of American Plant Food Control Officials.

14682. No person shall distribute an adulterated fertilizing material. A fertilizing material shall be deemed to be adulterated under any of the following conditions:

(a) If it contains any deleterious or harmful ingredient in sufficient amounts to render it injurious to beneficial plant life when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life are not indicated on the label.

(b) If its composition falls below or differs from that which it is purported to possess by its labeling.

(c) If it contains unwanted crop seed or weed seed.

(d) If it is a threat to public safety.

SEC. 3. Notwithstanding the repeal of former Sections 14541 and 14542 of the Food and Agricultural Code by Section 1 of this act, the members of the Fertilizer Inspection Advisory Board appointed to the board on or before December 31, 1990, pursuant to those provisions shall continue in office for the remainder of their unexpired term. On and after January 1, 1991, the appointment of members of the Fertilizer Inspection Advisory Board and their term of office shall be governed by Article 3 (commencing with Section 14581) of Chapter 5 of Division 7 of the Food and Agricultural Code, as added by Section 2 of this act.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become

operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 505

An act to amend and repeal Sections 8008, 8015, 8030.2, 8030.4, 8030.6, 8030.8, and 8031 of the Business and Professions Code, and to amend Section 69950 of the Government Code, relating to court costs, and making an appropriation therefor.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 10, 1990]

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

SECTION 1. Section 8008 of the Business and Professions Code, as amended by Section 2 of Chapter 1327 of the Statutes of 1988, is amended to read:

8008. The board also has the following powers and duties:

(a) To adopt a seal.

(b) By affirmative vote of at least three members of the board, to suspend or revoke a certificate, for any cause specified in this chapter.

(c) To charge and collect from all applicants for examinations and certificates the fees provided for in this chapter.

(d) To require the renewal of all certificates and to collect therefor the renewal fee prescribed by this chapter.

(e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the board.

(f) To administer a fund established from the fees collected pursuant to Section 8031, or from any other donated sources, to reimburse indigent litigants for the cost of preparation of official transcripts of court proceedings and deposition proceedings.

(g) To submit to the Legislature no later than September 1, 1987, and annually thereafter, a report concerning the past fiscal year's experience with the Transcript Reimbursement Fund. The report shall include, but is not limited to, information which indicates the following:

(1) The number of requests for reimbursement.

(2) The number of requests granted.

(3) The number of requests denied.

(4) The total amount of funds disbursed.

(5) The amount of any remaining unexpended funds.

(6) The anticipated funding level needed to meet all requests in the following fiscal year.

(7) The total amount of refunds resulting from either a judicial award or settlement agreement which includes provisions for attorneys' fees or costs as provided in subdivision (c) of Section

8030.2.

(8) The amount of funds received from other sources.

(h) To investigate the actions of any licensee, upon receipt of a verified complaint in writing from any person, for alleged acts or omissions constituting grounds for disciplinary action under the chapter.

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 2. Section 8008 of the Business and Professions Code, as amended by Section 3 of Chapter 1327 of the Statutes of 1988, is amended to read:

8008. The board also has the following powers and duties:

(a) To adopt a seal.

(b) By affirmative vote of at least three members of the board, to suspend or revoke a certificate, for any cause specified in this chapter.

(c) To charge and collect from all applicants for examinations and certificates the fees provided for in this chapter.

(d) To require the renewal of all certificates and to collect therefor the renewal fee prescribed by this chapter.

(e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the board.

(f) To investigate the actions of any licensee, upon receipt of a verified complaint in writing from any person, for alleged acts or omissions constituting grounds for disciplinary action under the chapter.

This section shall become operative on June 30, 1996.

SEC. 3. Section 8015 of the Business and Professions Code, as added by Section 3 of Chapter 529 of the Statutes of 1986, is amended to read:

8015. This chapter is designed (a) to establish and maintain a standard of competency for those engaged in the practice of shorthand reporting, for the protection of the public, in general, and for the protection of all litigants whose rights to personal freedom and property are affected by the competency of shorthand reporters, in particular, and (b) to extend court and general reporting services to the public otherwise unable to afford such services.

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 4. Section 8015 of the Business and Professions Code, as amended by Section 4 of Chapter 529 of the Statutes of 1986, is amended to read:

8015. This chapter is designed to establish and maintain a standard of competency for those engaged in the practice of shorthand reporting, for the protection of the public, in general, and for the protection of all litigants whose rights to personal freedom and property are affected by the competency of shorthand reporters, in particular.

This section shall become operative on June 30, 1996.

SEC. 5. Section 8030.2 of the Business and Professions Code is amended to read:

8030.2. (a) To provide shorthand reporting services to low-income litigants unable to otherwise afford such services, funds generated by fees received by the board pursuant to subdivision (c) of Section 8031 in excess of funds needed to support the board's operating budget for the fiscal year in which a transfer described below is made shall be used by the board for the purpose of establishing and maintaining a Transcript Reimbursement Fund. The Transcript Reimbursement Fund shall be established by a transfer of funds from the Shorthand Reporters' Fund and shall be maintained in an amount no less than three hundred thousand dollars ($300,000) for each fiscal year beginning with the fiscal year 1986–87.

(b) All moneys held in the Shorthand Reporters' Fund on the effective date of this section in excess of the board's operating budget for the 1986–87 fiscal year shall be used as provided in subdivision (a).

(c) Refunds and unexpended funds that are anticipated to remain in the Transcript Reimbursement Fund at the end of the fiscal year shall be considered by the board in establishing the fee assessment pursuant to Section 8031 so that the assessment shall maintain the Transcript Reimbursement Fund at the appropriate level in the following fiscal year.

(d) The Transcript Reimbursement Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys in the Transcript Reimbursement Fund are continuously appropriated for the purposes of this chapter.

(e) Applicants who have been reimbursed pursuant to this chapter for services provided to litigants and who are awarded court costs or attorneys' fees by judgment or by settlement agreement, shall refund the full amount of that reimbursement to the fund within 90 days of receipt of the award or settlement.

(f) Subject to the limitations of this chapter, the board shall maintain the fund at a level which is sufficient to pay all qualified claims. To accomplish this objective, the board shall utilize all refunds, unexpended funds, fees, and any other moneys received by the board.

(g) Notwithstanding Section 16346 of the Government Code, all unencumbered funds remaining in the Transcript Reimbursement Fund as of June 29, 1986, shall be transferred to the Transcript Reimbursement Fund established by this section.

(h) Notwithstanding Section 16346 of the Government Code, all unencumbered funds remaining in the Transcript Reimbursement Fund as of June 29, 1996, shall be transferred to the Shorthand Reporters' Fund.

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 6. Section 8030.4 of the Business and Professions Code is amended to read:

8030.4. As used in this chapter:

(a) "Qualified legal services project" means a nonprofit project incorporated and operated exclusively in California which provides as its primary purpose and function legal services without charge to indigent persons, has a board of directors or advisory board composed of both attorneys and consumers of legal services, and provides for community participation in legal services programming. Legal services projects funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purposes of this chapter.

(b) "Qualified support center" means an incorporated nonprofit legal services center, having an office or offices in California, which office or offices provide legal services or technical assistance without charge to qualified legal services projects and their clients on a multicounty basis in California. Support centers funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purposes of this chapter.

(c) "Other qualified project" means a nonprofit organization formed for charitable or other public purposes, not receiving funds from the Legal Services Corporation or pursuant to the Older Americans Act, which organization or association provides free legal services to indigent persons.

(d) "Pro bono attorney" means any attorney, law firm, or legal corporation, licensed to practice law in this state, which undertakes without charge to the party the representation of an indigent person, referred by a qualified legal services project, qualified support center, or other qualified project, in a case not considered to be fee generating as defined in this chapter.

(e) "Applicant" means a qualified legal services project, qualified support center, other qualified project, or pro bono attorney applying to receive funds from the Transcript Reimbursement Fund established by this chapter.

(f) "Indigent person" means either a person whose income is 125 percent or less of the current poverty threshold established by the Office of Management and Budget of the United States, a disabled person whose income after meeting medical and other disability-related special expenses is 125 percent or less of that current poverty threshold, or a person who receives or is eligible to receive supplemental security income.

(g) "Fee-generating case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from an opposing party. A case shall not be considered fee generating if adequate representation is deemed to be unavailable under any of the following:

(1) Where the applicant has determined that referral is not

possible because of any of the following:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two private attorneys who have experience in the subject matter of the case.

(B) Neither the referral service nor any lawyer will consider the case without payment of a consultation fee.

(C) The case is of the type that private attorneys in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Where recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief; or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) Where a court appoints an applicant or an employee of an applicant pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) In any case involving the rights of a claimant under a public supported benefit program for which entitlement to benefit is based on need.

(h) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974, Public Law 93-355, as amended.

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the Social Security Act, Public Law 92-603, as amended, or payment under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "Lawyer referral service" means a lawyer referral program authorized by the State Bar of California pursuant to the rules of professional conduct.

(k) "Older Americans Act" means the Older Americans Act of 1965, Public Law 89-73, as amended.

(*l*) "Rules of professional conduct" means those rules adopted by the State Bar pursuant to Sections 6076 and 6077.

(m) "Certified shorthand reporter" means a shorthand reporter certified pursuant to Article 3 (commencing with Section 8020).

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 7. Section 8030.6 of the Business and Professions Code is amended to read:

8030.6. The board shall disburse funds from the Transcript Reimbursement Fund, in accordance with the procedures set forth below, to the applicant or the certified shorthand reporter designated in the application for the costs, exclusive of per diem

charges, of preparing either an original transcript and one copy thereof, or where appropriate, a copy of the transcript, of court or deposition proceedings, or both, incurred as a contractual obligation between the shorthand reporter and the applicant, for litigation conducted in California:

(a) The applicant or certified shorthand reporter shall promptly submit to the board the certified shorthand reporter's invoice for transcripts together with the appropriate documentation as is required by this chapter.

(b) Except as provided in subdivision (c), the board shall promptly determine if the applicant is entitled to reimbursement under this chapter and shall make payment as follows:

(1) Regular customary charges for preparation of original deposition transcripts and one copy thereof, or a copy of the transcripts.

(2) Regular customary charges for expedited deposition transcripts up to a maximum of two thousand five hundred dollars ($2,500) per case.

(3) Regular customary charges for the preparation of original transcripts and one copy thereof, or a copy of transcripts of court proceedings.

(4) Regular customary charges for expedited or daily charges for preparation of original transcripts and one copy thereof or a copy of transcripts of court proceedings.

(c) The maximum amount reimbursable by the fund under both paragraphs (1) and (2) of subdivision (b) shall not exceed twenty thousand dollars ($20,000) per case per year.

(d) If entitled, and funds are available, the board shall forthwith disburse the appropriate sum to the applicant when documentation as provided in subdivision (d) of Section 8030.8 accompanies the application or the certified shorthand reporter together with a notice requiring the recipient to file a notice with the court in which the action is pending advising that such sum has been paid pursuant to this section and that if such sum is subsequently included in any award of costs made in such action that such sum is to be ordered refunded by the applicant to the Transcript Reimbursement Fund whenever the sum is actually recovered as costs. The court shall not consider whether payment has been made from the Transcript Reimbursement Fund in determining the appropriateness of any award of costs to the parties. The board shall also forthwith notify the applicant that such sum has been paid to the certified shorthand reporter and shall likewise notify the applicant of the duty to refund any of such sum actually recovered as costs in the action.

(e) If not entitled, the board shall forthwith return a copy of the invoice to the applicant and the designated certified shorthand reporter together with a notice stating the grounds for denial.

(f) The board shall complete its actions under this subdivision within 30 days of receipt of the invoice and accompanying documentation.

(g) Applications for reimbursements from the fund shall be filled on a first-come basis.

(h) Applications for reimbursement which cannot be paid from the fund due to insufficiency of the fund for that fiscal year shall be held over until the next fiscal year to be paid out of the renewed fund.

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 8. Section 8030.8 of the Business and Professions Code is amended to read:

8030.8. (a) For purposes of this chapter, documentation accompanying an invoice shall be presumed sufficient to establish entitlement for reimbursement from the Transcript Reimbursement Fund if it establishes all of the following:

(1) The case name and number and that the litigant or litigants requesting the reimbursement are indigent persons.

(2) The applicant is qualified under the provisions of this chapter.

(3) The case is not a fee-generating case as defined in Section 8030.4.

(4) The invoice or other documentation shall evidence that the certified shorthand reporter to be reimbursed was, at the time the services were rendered, a duly licensed certified shorthand reporter.

(5) The invoice shall be accompanied by a statement, signed by the applicant, stating that the charges are for transcripts actually provided as indicated on the invoice.

(6) The applicant has acknowledged, in writing, that as a condition of entitlement for reimbursement that the applicant agrees to refund the entire amount disbursed from the Transcript Reimbursement Fund from any costs or attorneys' fees awarded to the applicant by the court or provided for in any settlement agreement in the case.

(7) The certified shorthand reporter's invoice for transcripts shall include separate itemizations of charges claimed, as follows:

(A) Total charges and rates for customary services in preparation of an original transcript and one copy or a copy of the transcript of depositions.

(B) Total charges and rates for expedited deposition transcripts.

(C) Total charges and rates in connection with transcription of court proceedings.

(b) In the case of an applicant claiming to be eligible pursuant to subdivision (a), (b), or (c) of Section 8030.4, a letter from the director of such project or center, certifying that the project or center meets the standards set forth in one of those subdivisions and that the litigant or litigants are indigent persons, shall be sufficient documentation to establish eligibility.

(c) In the case of an applicant claiming to be eligible pursuant to subdivision (d) of Section 8030.4, a letter certifying that the applicant meets the requirements of that subdivision, that the case is not a fee-generating case as defined in subdivision (g) of Section 8030.4,

and that the litigant or litigants are indigent persons, together with a letter from the director of a project or center defined in subdivision (a), (b) or (c) of Section 8030.4 certifying that the litigant or litigants had been referred by that project or center to the applicant, shall be sufficient documentation to establish eligibility.

(d) The applicant may receive reimbursement directly from the board when the applicant has previously paid the certified shorthand reporter for transcripts as provided in Section 8030.6. To receive payment directly, the applicant shall submit, in addition to all other required documentation, an itemized statement signed by the certified shorthand reporter performing the services which describes payment for transcripts in accordance with the requirements of Section 8030.6.

(e) The board may prescribe appropriate forms to be used by applicants and certified reporters to facilitate these requirements.

(f) Nothing in this chapter restricts the contractual obligation or payment for services, including, but not limited to, billing the applicant directly, during the pendency of the claim.

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 9. Section 8031 of the Business and Professions Code, as added by Section 11 of Chapter 529 of the Statutes of 1986, is amended to read:

8031. The amount of the fees required by this chapter is that fixed by the board in accordance with the following schedule:

(a) The fee for filing an application for each examination shall be no more than forty dollars ($40).

(b) The initial certificate fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than 180 days after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued or fifty dollars ($50), whichever is greater. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be fixed by the board in such amounts and at such times as the board may deem appropriate to meet its operational expenses and funding responsibilities established by this chapter, at not more than one hundred twenty-five dollars ($125) nor less than ten dollars ($10) annually, with the following exception:

Any person who is employed full time by the State of California as a hearing reporter and who does not otherwise render shorthand reporting services for a fee shall be exempt from licensure while in state employment and shall not be subject to the renewal fee provisions of this subdivision until 30 days after leaving state employment. The renewal fee shall, in addition to the amount fixed by this subdivision, include any unpaid fees required by this section

plus any delinquency fee.

(d) The delinquency fee shall be no greater than twenty dollars ($20).

(e) The duplicate certificate fee shall be no greater than five dollars ($5).

(f) The penalty for failure to notify the board of a change of address shall be no greater than twenty dollars ($20).

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 10. Section 8031 of the Business and Professions Code, as amended by Section 12 of Chapter 529 of the Statutes of 1986, is amended to read:

8031. The amount of the fees required by this chapter is that fixed by the following schedule:

(a) The fee for filing an application for each examination shall be fixed by the board at not more than forty dollars ($40).

(b) The initial certificate fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than one year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be fixed by the board for renewal for each of the biennial renewal periods, at not more than forty dollars ($40), nor less than ten dollars ($10).

(d) The delinquency fee is twenty dollars ($20).

(e) The duplicate certificate fee is five dollars ($5).

(f) The penalty for failure to notify the board of a change of address is twenty dollars ($20).

This section shall become operative on June 30, 1996.

SEC. 11. Section 69950 of the Government Code is amended to read:

69950. The fee for transcription for original ribbon copy is eighty-five cents ($0.85) for each 100 words, and for each copy for the party buying the original made at the same time, fifteen cents ($0.15) for each 100 words. The fee for a first copy to any other person shall be twenty cents ($0.20) for each 100 words, and for each additional copy, made at the same time, fifteen cents ($0.15) for each 100 words.

CHAPTER 506

An act to amend Sections 4005, 4010, and 4021 of, and to add and repeal Sections 460.6 and 3554.1 of, the Public Utilities Code, relating to carriers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 13, 1990.]

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

SECTION 1. Section 460.6 is added to the Public Utilities Code, to read:

460.6. (a) On or before June 1, 1990, every highway common carrier employing workers and cement carrier employing workers shall file with the commission a certificate of workers' compensation insurance coverage for its employees or a certification of consent to self-insure issued by the Director of Industrial Relations.

(b) This section shall become inoperative on July 1, 1990, and, as of January 1, 1991, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1991, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 3554.1 is added to the Public Utilities Code, to read:

3554.1. (a) On or before June 1, 1990, every highway permit carrier employing workers shall file with the commission a certificate of workers' compensation insurance coverage for its employees or a certification of consent to self-insure issued by the Director of Industrial Relations.

(b) This section shall become inoperative on July 1, 1990, and, as of January 1, 1991, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1991, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 4005 of the Public Utilities Code is amended to read:

4005. (a) Except as provided in Section 4008, no private carrier shall operate a motor vehicle on any public highway in this state without first having registered the operation with the commission. The commission shall grant registration upon the filing of the application and the payment of the fee as required by this article, subject to the private carrier's compliance with this chapter.

(b) This section shall become operative on January 1, 1991.

SEC. 4. Section 4010 of the Public Utilities Code is amended to read:

4010. Registration shall not be granted to any private carrier until there is filed with and accepted by the commission, in such form as it may prescribe, a currently effective certificate or certificates of insurance or a surety bond or bonds evidencing protection against

liability imposed by law for the payment of damages for personal injury to, or death of, any person, or damages to property, or both.

SEC. 5. Section 4021 of the Public Utilities Code is amended to read:

4021. (a) Any person or corporation who violates any provision of this chapter is guilty of an infraction, and is punishable by a fine of not more than two thousand five hundred dollars ($2,500), or by imprisonment in the county jail for not more than three months, or both.

(b) This section shall become operative on June 30, 1991.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the continuity of provisions requiring certain for-hire carriers to provide proof of workers' compensation coverage for their employees, and to prevent the risk of uncompensated on-the-job injuries to these employees at the earliest possible time, it is necessary that this bill take effect immediately. Moreover, in order to correct an inadvertent error in Section 4010 of the Public Utilities Code at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 507

An act to amend Sections 27531, 27551, 27571, 27571.1, 27633, 27661, 27663, and 27667 of, to amend the title of Article 3 (commencing with Section 27541) of Chapter 1 of Part 4 of Division 12 of, and to add Sections 27555, 27595, 27596, 27597, 27598, 27599, and 27600 to, the Food and Agricultural Code, relating to agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 13, 1990.]

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

SECTION 1. Section 27531 of the Food and Agricultural Code is amended to read:

27531. The director may adopt regulations relating to the preparation for market and marketing of shell eggs as he or she determines are reasonably necessary to carry out the purposes of this chapter. The regulations may include any of the following:

(a) The establishment of grade standards including minimum quality and minimum size.

(b) Pack specifications.

(c) Marking requirements.

(d) Sampling procedures for enforcement purposes.

(e) Control and disposition of substandard lots.

(f) Use of registered brands and containers, including transportation.

(g) Requirements for displays and advertising.

(h) Procedures for the registration of shell egg handlers.

(i) Procedures for the collection of registration fees and assessments.

(j) Procedures for the development and collection of data pertaining to egg production, number of chickens, and other information as recommended by the committee.

(k) Any other matter necessary for the accomplishment of the purposes of this chapter.

SEC. 1.5. Section 27531 of the Food and Agricultural Code is amended to read:

27531. The director may adopt regulations relating to the preparation for market and marketing of shell eggs as he or she determines are reasonably necessary to carry out the purposes of this chapter. The regulations may include any of the following:

(a) The establishment of grade standards including minimum quality and minimum size.

(b) Pack specifications.

(c) Marking requirements.

(d) Sampling procedures for enforcement purposes.

(e) Hearing procedures for enforcement purposes.

(f) Control and disposition of substandard lots.

(g) Use of registered brands and containers, including transportation.

(h) Requirements for displays and advertising.

(i) Procedures for the registration of shell egg handlers.

(j) Procedures for the collection of registration fees and assessments.

(k) Procedures for the development and collection of data pertaining to egg production, number of chickens, and other

information as recommended by the committee.

(*l*) Any other matter necessary for the accomplishment of the purposes of this chapter.

SEC. 2. The title of Article 3 (commencing with Section 27541) of Chapter 1 of Part 4 of Division 12 of the Food and Agricultural Code is amended to read:

Article 3. Registration of Egg Handlers

SEC. 3. Section 27551 of the Food and Agricultural Code is amended to read:

27551. The following persons shall pay to the director a maximum fee of five cents ($0.05) for each 30 dozens of eggs sold or purchased as provided below:

(a) Egg handlers shall pay the fee on all egg sales from their own production, on eggs purchased or acquired from egg producers, and on eggs processed into egg products.

(b) The egg producer shall pay the fee on all egg sales to anyone not registered as a California egg handler, to out-of-state purchasers, and to egg breaking plants.

(c) The initial purchaser of eggs from out-of-state, even if a retailer, producer, handler, or breaking plant, shall report and pay the fee.

(d) Shipments of eggs which are accompanied by a United States Department of Agriculture certificate of grade and sold to the federal government or its agencies are exempt from these fees.

(e) Eggs sold to household consumers on the premises where produced from a total flock size of 500 hens or less are exempt from these fees.

(f) The assessment provided for in this section shall only be paid once on any particular egg.

SEC. 4. Section 27555 is added to the Food and Agricultural Code, to read:

27555. The director may assess a special fee upon egg handlers who use descriptive terms on egg containers that require laboratory analysis to verify the terms. This fee shall be used for laboratory analysis necessary for label approval and continued surveillance for compliance with the descriptive terms.

SEC. 5. Section 27571 of the Food and Agricultural Code is amended to read:

27571. The director shall appoint a Shell Egg Advisory Committee consisting of seven members, six of whom shall be selected by the director from egg handlers and be representative of the egg industry. The California Agricultural Commissioners Association shall annually designate one of its members who shall serve in a nonvoting capacity as the seventh member of the committee. The director may appoint one additional member on the committee, who shall be a public member. The members of the committee shall receive no salary.

Upon the director's request, the committee 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, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the committee. The director may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the director, the committee 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 committee shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

SEC. 6. Section 27571.1 of the Food and Agricultural Code is amended to read:

27571.1. It is hereby declared, as a matter of legislative determination, that egg handlers appointed to the Shell Egg Advisory Committee pursuant to this article 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 committee, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 7. Section 27595 is added to the Food and Agricultural Code, to read:

27595. The enforcing officer may, and, if requested by an enforcing officer of the state or county of destination, shall, affix a warning to any vehicle or other means of transportation, or to any eggs not previously available for inspection in California unless accompanied by a federal certificate of grade, whether or not the eggs are exempt from the standards, and serve a disposal order upon the owner or person that has custody or possession of any load or lot.

SEC. 8. Section 27596 is added to the Food and Agricultural Code, to read:

27596. The warning notice, and disposal order which directs the proper disposition of eggs, and the disposal order receipt to be signed by an enforcing officer at destination which confirms that disposition, shall be in the form which is specified by, and provided by, the director.

SEC. 9. Section 27597 is added to the Food and Agricultural Code, to read:

27597. The enforcing officer at the point of destination of a load or lot shall determine that the load or lot has been delivered to the consignee at the destination which is specified in the order and shall

then release the load or lot and countersign the disposal order receipt so given to him or her. He or she shall immediately forward the receipt to the enforcing officer who served the disposal order.

SEC. 10. Section 27598 is added to the Food and Agricultural Code, to read:

27598. It is unlawful for any person to deliver any eggs which are subject to a disposal order to any person or destination except the person or destination which is shown on the disposal order, unless he or she is specifically authorized in writing to do so by an enforcing officer.

SEC. 11. Section 27599 is added to the Food and Agricultural Code, to read:

27599. It is unlawful for any person to dispose of any eggs which are subject to a disposal order prior to the release in writing of the load or lot by the enforcing officer at the point of destination. This section does not, however, make it unlawful for any person to unload and store any eggs which are subject to a disposal order.

SEC. 12. Section 27600 is added to the Food and Agricultural Code, to read:

27600. It is unlawful for any person to use or dispose of any eggs for which a disposal order has been issued, in any manner or for any purpose except the manner or purpose for which the disposal order was issued, unless the person is specifically authorized in writing to do so by an enforcement officer.

SEC. 13. Section 27633 of the Food and Agricultural Code is amended to read:

27633. It is unlawful for any person to engage in the business of an egg handler without first registering as an egg handler as provided for in Article 3 (commencing with Section 27541).

SEC. 14. Section 27661 of the Food and Agricultural Code is amended to read:

27661. Every egg handler shall register with the director each brand name which is intended for use by the handler on a master container of eggs, other than a container made of corrugated fiber.

SEC. 15. Section 27663 of the Food and Agricultural Code is amended to read:

27663. Any person who, without prior authorization, acquires possession of a master container which bears a brand belonging to someone else, shall, at his or her own expense, return the container to the registered owner within 30 days. This section does not apply to the operator of a retail store who is not otherwise an egg handler.

SEC. 16. Section 27667 of the Food and Agricultural Code is amended to read:

27667. A licensee may sell containers which do not have a registered brand, and the ownership of which cannot be determined, to egg handlers. The handlers shall apply a registered brand before use. The licensee shall keep a record of each sale for a period of two years. All records required to be maintained by a licensee shall be made available to the director upon request.

SEC. 17. Section 1.5 of this bill incorporates amendments to Section 27531 of the Food and Agricultural Code proposed by both this bill and AB 3928. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1991, but this bill becomes operative first, (2) each bill amends Section 27531 of the Food and Agricultural Code, and (3) this bill is enacted after AB 3928, in which case Section 27531 of the Food and Agricultural Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 3928, at which time Section 1.5 of this bill shall become operative.

SEC. 18. 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order for this act to take effect and apply at the beginning of the 1990–91 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 508

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 August 10, 1990. Filed with Secretary of State August 13, 1990.]

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

SECTION 1. (a) The sum of four million four hundred forty thousand two hundred sixty dollars ($4,440,260) is hereby appropriated to the Department of Justice to pay judgments and settlement claims as specified in the following schedule:

(1) Fifty-two thousand seven hundred sixty dollars ($52,760) from funds appropriated in Section 2.00 of the Budget Act of 1990, as follows:

(A) Forty-one thousand dollars ($41,000) from Item 4260-001-001 for the case of Johnston v. Koppes (U.S. Dist. Ct., Eastern Dist. of

Cal., Case No. Civ. S-85-1288 EJG).

(B) Eleven thousand seven hundred sixty dollars ($11,760) from Item 5240-001-001 for the case of Basurto v. McCarthy (U.S. Dist. Ct., Eastern Dist. of Cal., Case No. Civ. S-86-1457 EJG).

(2) Two million five hundred thirty-seven thousand five hundred dollars ($2,537,500) from the General Fund, as follows:

(A) Two hundred thirty-two thousand five hundred dollars ($232,500) for the case of Allen v. Department of Food and Agriculture (Superior Ct., Sacramento Co., Case No. 320934).

(B) Two million three hundred five thousand dollars ($2,305,000) for the case of Watson v. Department of Rehabilitation (Superior Ct., Los Angeles Co., Case No. C 268034).

(3) One million six hundred fifty thousand dollars ($1,650,000) from the Motor Vehicle Account, State Transportation Fund, for the case of Hansen et al. v. California Highway Patrol (Superior Ct., Imperial Co., Case No. 61514).

(4) Two hundred thousand dollars ($200,000) from the State Parks and Recreation Fund for the case of Stribling et al. v. Mazda Motors et al. (Superior Ct., Sonoma Co., Case No. 152830).

(b) The Department of Justice shall notify the Controller in writing of the payment of each of the judgments and settlement claims specified in subdivision (a). With regard to any case for which funds are appropriated in subdivision (a), the Controller shall, at the close of the fiscal year in which notice of payment is received from the Department of Justice, cause any undisbursed balance to revert to the fund from which the appropriation was made. Whenever an appropriation exceeds the actual amount necessary to satisfy a settlement in accordance with the settlement agreement or a judgment, the excess shall revert to the fund from which the appropriation was made.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to pay 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 509

An act to add Sections 11623.5, 11624.1, 11624.2, 11624.3, 11624.4, 11624.7, and 11627.5 to the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 13, 1990]

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

SECTION 1. Section 11623.5 is added to the Insurance Code, to read:

11623.5. (a) Groups of insurers not under common ownership or management may form a limited assignment distribution arrangement. Each arrangement shall have one servicing carrier that writes assigned risk business on behalf of the members of the arrangement in return for consideration from the other participating carriers for not writing the business.

(b) No insurer may act as a servicing carrier except with the continuing approval of the commissioner.

(c) Each servicing carrier shall have a surplus of at least ten million dollars ($10,000,000).

(d) Upon the approval of the commissioner of a servicing carrier under this section, the plan shall make all assignments that otherwise would be made to a participant to the servicing carrier for that participant.

(e) The commissioner shall impose a filing fee for the filing necessary to obtain approval pursuant to this section, which fee shall be limited to that sufficient to defray the costs of the department in connection with considering the application.

SEC. 2. Section 11624.1 is added to the Insurance Code, to read:

11624.1. (a) An insurer shall mail a policy within 30 days of the receipt of an assignment.

(b) Upon the determination of an insurer to whom an assignment is made that the application of an insured is defective, the insurer shall immediately give written notice of the defect to the insured and to the agent or broker of record that the insured has 15 days from the mailing of the notice of defect to correct the defect.

SEC. 3. Section 11624.2 is added to the Insurance Code, to read:

11624.2. (a) An insurer shall acknowledge in writing within 15 days the receipt of a request for the endorsement of an assigned risk policy. The mailing of the endorsement within 15 days of receipt shall constitute acknowledgement of receipt.

(b) Upon receipt of a completed request for an endorsement that contains all information necessary for the issuance of an endorsement, the insurer shall issue and mail the endorsement to the insured within 30 days of the request for the endorsement.

(c) As used in this section, "endorsement" means an amendment

of a policy, such as a loss payee endorsement, the addition or deletion of insureds, or the addition or deletion of coverage.

SEC. 4. Section 11624.3 is added to the Insurance Code, to read:

11624.3. Any return premium checks due to an insured or to a lender subject to the provisions of subdivision (g) of Section 673 on account of a cancellation or endorsement shall be mailed within 30 days of the effective date of the cancellation or endorsement.

SEC. 5. Section 11624.4 is added to the Insurance Code, to read:

11624.4. Every insurer to whom an assignment is made shall do all of the following:

(a) Provide policyholders with information on how to report claims.

(b) Provide brokers and agents with a toll-free telephone number or accept their collect calls for the purpose of providing agents and brokers with a means of communicating with the insurer in order to rectify errors in applications or endorsements for assigned-risk coverage.

(c) Reply in writing within 15 days to complaints disputing the amount of premium charged for coverage under this article.

SEC. 6. Section 11624.7 is added to the Insurance Code, to read:

11624.7. Within 60 days after the effective date of any policy issued or renewed under this article, the insurer shall obtain from the Department of Motor Vehicles a report on the applicant and any other person who may reasonably be expected to operate the applicant's motor vehicle with the permission of the applicant. Any premium adjustments that occur as a result of the inspection of the reports shall be billed within this 60-day period. This section does not apply to amendments of a policy other than upon original issuance or renewal.

SEC. 7. Section 11627.5 is added to the Insurance Code, to read:

11627.5. (a) Every insurer to which this article applies shall, at the time of filing the annual report required by Section 900, file on a form prescribed by the commissioner, after consultation with the committee of the plan, a report which shall contain at least the following information on its assigned-risk business:

(1) Loss ratio.

(2) Loss adjustment expense ratio.

(3) Expense ratio.

(4) Combined ratio.

Reports filed in 1991 shall contain information for the prior three years, by year.

(b) The commissioner may require insurers with combined ratios that are 10 percent above the mean combined ratio for all plan participants to also report the following:

(1) The reason for the excessive ratio.

(2) A plan for reducing the ratio, and when the reduction can be expected to occur. The commissioner and the committee may require insurers subject to this subdivision to provide periodic reports on the progress in reducing the combined ratio.

(c) Information reported under this section shall be a public record.

(d) The commissioner shall report the information reported under this section, in the aggregate and by insurer, with accompanying discussion, to the appropriate policy committee of each house of the Legislature on or before March 1, 1992, and March 1 of each year thereafter.

CHAPTER 510

An act relating to the Sacramento Area Flood Control Agency.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 13, 1990.]

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 Sacramento Area Flood Control Agency Act.

CHAPTER 2. FINDINGS

Sec. 20. The Legislature finds and declares as follows:

(a) The Sacramento Area Flood Control Agency has been created as a joint exercise of powers agency under an agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, and dated November 21, 1989.

(b) The need for coordinated planning for the control of flood waters within or flowing into the boundaries of the City of Sacramento, the County of Sacramento, Reclamation District 1000, the American River Flood Control District, and portions of the County of Sutter, and the protection of public and private property from those waters led to the creation of the Sacramento Area Flood Control Agency.

(c) A purpose of the Sacramento Area Flood Control Agency is to coordinate a regional effort to finance, provide, and maintain facilities and works necessary to ensure a reasonable and prudent level of flood protection, as determined by the agency, in developed and urbanizing areas which are designated for residential, commercial, or industrial uses within its boundaries and to provide local assurances and participate in cost sharing for federal flood control projects.

CHAPTER 3. DEFINITIONS

Sec. 30. "Agency" means the Sacramento Area Flood Control Agency.

Sec. 31. "Agreement" means the joint exercise of powers agreement under which the Sacramento Area Flood Control Agency was formed and any subsequent amendments to it.

Sec. 32. "Board" means the board of directors of the agency, as established pursuant to the agreement.

Sec. 33. "Incidental expenses" includes all of the following:

(a) The cost of planning and designing projects pursuant to this act, including the costs of environmental evaluations and mitigation for those projects.

(b) The costs associated with the creation and administration of any financing arrangement authorized by this act, including, but not limited to, the costs of creating or modifying assessment or special tax districts, the costs of collecting assessments and special taxes, and costs arising from the issuance and administration of any bonds issued under this act.

(c) Any other expenses incidental to the construction, completion, inspection, and financing or refinancing of any authorized project, including relocation costs.

Sec. 34. "Project" means the acquisition, construction, maintenance, or operation of any flood control facility authorized under the agreement and not inconsistent with this act, including, but not limited to, acquisition of right-of-way and payment of incidental expenses. Participation in a project includes making payments or other contributions pursuant to any contract entered into with another governmental agency which requires the other governmental agency to perform work on a project.

PART 2. ORGANIZATION AND POWERS

CHAPTER 1. MEMBERSHIP, BOUNDARIES, AND GENERAL POWERS

Sec. 50. The membership, boundaries, purposes, and governance of the agency shall be as set forth in the agreement. The agreement may be amended in accordance with the provisions of the agreement as initially signed or subsequently amended by its members, as long as the amendments do not conflict with this act or Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

Sec. 51. The agency shall not undertake any project located within the jurisdictional boundaries of its member agencies and of any reclamation, levee, or levee maintenance district not party to the agreement, without the prior agreement of the governing body of the affected district.

Sec. 52. Notwithstanding the purposes specified in the agreement, the agency shall have as its highest priority the

protection of life, property, watercourses, watersheds, and public highways within its boundaries from damage from flood and storm waters. In addition, to the maximum extent economically feasible and consistent with its flood protection and flood management requirements and with state and federal agreements, the agency shall carry out its responsibilities in ways which provide for the optimum protection of the natural environment, especially riparian habitat and natural stream channels suitable for native plant and wildlife habitat and public recreation. Nothing in this act is intended to amend, modify, or alter the provisions of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or any other state or federal laws whose purpose is to protect and preserve the natural environment.

Sec. 53. Notwithstanding any other provision of law, the agency may participate in financing or refinancing any flood control works or the flood control component of any dam, including a multiple purpose dam.

SEC. 54. If the agency is authorized to participate in financing and refinancing the construction of an expandable flood control dam, the financing or refinancing may include elements not strictly necessary for flood control, but only if both of the following occur:

(a) In the judgment of the board at the time the project receives the board's final approval, the financing or refinancing of these elements is cost-effective as compared to adding these elements when and if the dam is expanded.

(b) The congressional authorization, or state authorization, of the expandable flood control dam provides that, in the event the dam is subsequently expanded to provide water and power:

(1) All of the costs of constructing the expandable flood control dam shall be reapportioned among the financial participants in the expanded dam, including, without limitation, flood control, water, and power. Any such reapportionment shall be made as if the original flood control dam had been constructed as a multipurpose facility using the estimated value of the flood control project at the time of expansion.

(2) The costs which are thereby assigned to water and power, including the cost of expandability elements, shall be repaid to, and divided among, the financial participants in the original flood control dam in proportion to the share of these costs borne by each such participant.

The cost attributable to interest incurred relating to the expandability elements may be apportioned at the discretion of the board in accordance with this section.

Sec. 55. Sections 53 and 54 do not represent, and shall not be construed as representing, legislative preference for a dam or any particular dam, dam size, design, or option.

PART 3. FINANCIAL PROVISIONS

CHAPTER 1. GENERAL FINANCIAL PROVISIONS

Sec. 100. The agency may, in any year, levy assessments, reassessments, or special taxes and issue bonds to finance projects 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), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Division 2 of Title 5 of the Government Code), 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), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

Sec. 101. Sections 5190, 5191, 5192, 5193, and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to Section 100.

Sec. 102. Notwithstanding the related provisions of any assessment act which the agency is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the district may show only the exterior boundaries of the assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each lot or parcel.

Sec. 103. (a) Notwithstanding any other provision of law, the agency may levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects.

(2) For the satisfaction of liabilities arising from projects.

(3) For the administration costs of the agency.

(4) To accumulate a fund which may be used to advance the cost of agency projects, provided that the advances be repaid, with interest as determined by the board, from assessments, reassessments, special taxes, or fees charged by the agency pursuant to this act.

(b) For purposes of this section, the board shall perform all the functions allocated by Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to the board of supervisors or the board of trustees.

(c) For purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

Sec. 104. Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code does not apply to any assessment levied by the agency.

Sec. 105. Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the agency may be collected together with, and not separately from, taxes for county purposes. Any county which is a member of the agency may collect at the request of the agency all assessments, reassessments, and special taxes levied by the agency and shall cause those revenues to be deposited into the Sacramento County Treasury to the credit of the agency. Each county may deduct its reasonable collection and administrative costs.

Sec. 106. Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this act may be apportioned on the basis of land use category, proportionate storm water runoff, relative hazard of flooding, or other reasonable basis, separately or in combination, as determined by the board. All lots and parcels shall be conclusively presumed to benefit from the projects being financed in proportion to that apportionment.

CHAPTER 2. SPECIAL CAPITAL ASSESSMENTS

Article 1. Formation of Districts

Sec. 110. As an alternative or in addition to any other power available to the agency, the agency may, in any year, levy and collect assessments and sell bonds pursuant to this chapter for any project. These assessments may be levied within the entire area of the agency or within any project area determined by the board to particularly benefit from a given project. Assessment areas may overlap.

Sec. 111. Before undertaking any assessment pursuant to this chapter, the agency shall adopt a resolution declaring its intention to do so, briefly describing the proposed project, specifying the exterior boundaries of the area to be assessed, and providing for the issuance of bonds, if any. The resolution shall briefly describe any existing or intended contract with any other governmental agency to share in financing or performance of the work on the project. The resolution shall also direct an officer of the agency to prepare a report pursuant to Section 112.

Sec. 112. The report shall contain all of the following:

(a) A general description of the project.

(b) A name for the proposed assessment district, which may be in the form "Sacramento Area Flood Control Assessment District Number _____."

(c) An estimate of the cost of the project. If part of the cost is

expected to be paid from contributions from other governmental agencies, the report shall include an estimate of the expected total amount of those contributions.

(d) A plan for financing the project, including a brief description of the principal amount and maturities of any proposed bonds, and of any reserve or other special funds required. The plan shall include estimates of the annual revenue needed to pay debt service on bonds and to pay any other expenses arising in conjunction with the project, including any amounts needed to replenish reserve or other special funds.

(e) A specification of a method for annually apportioning the estimated annual costs of the project among the parcels in the area to be assessed, and a method for determining the rate of assessment. The apportionment shall be in proportion to the benefit received by each parcel, as determined pursuant to Section 106. The specification shall be in sufficient detail to allow any property owner within the district to determine the annual amount that he or she would have to pay.

Sec. 113. When the report is filed with the agency, the board may at a public meeting tentatively approve the report and schedule a hearing on it not earlier than 30 days and not later than 90 days following tentative approval of the report. The hearing may be continued for a period not to exceed six months. Notice of the hearing shall be published pursuant to Section 6066 of the Government Code in a newspaper of general circulation in the area proposed to be assessed, and the first publication shall occur not later than 20 days before the date of the hearing. The notice to be published shall be entitled "Notice of Flood Control Assessments" and shall include all of the following:

(a) The time and place of the hearing on the proposed assessments and bonds.

(b) A general description of the proposed project and the area proposed to be assessed.

(c) A statement that the agency is considering levying annual assessments on lots or parcels of property within the area of the proposed district to pay for the project.

(d) A statement that the agency is considering issuing bonds to finance the local share of the cost of the proposed project.

(e) The name and telephone number of an employee of the agency from whom a copy of the report can be obtained, and who can answer questions concerning the project and the hearing. The agency may charge the reasonable reproduction costs for copies of the report, and shall make copies available for free public inspection at one or more public places within the area proposed to be assessed.

Sec. 114. A copy of the notice shall also be mailed, first class, postage prepaid, to all persons owning real property proposed to be assessed as their names and addresses appear on the last assessment roll for county taxes. The notices shall be mailed not later than 20 days before the date of the hearing.

Sec. 115. Any owner of real property in the area proposed to be assessed may file a written protest with the agency secretary at or before the time set for the hearing. Each protest shall contain a description of the lot or parcel in which each signer has an ownership interest, sufficient to allow the agency secretary to determine that the protest is valid. If the signer is not shown on the last assessment roll as the owner of the lot or parcel, the protest shall include written evidence that the signer is the legal owner of the property. The secretary shall endorse on each protest the date of receipt, and at the time of the hearing shall represent to the board all protests filed with the secretary.

Sec. 116. At the hearing, the board may modify the proposal in the report by either reducing the area proposed to be assessed, reducing the rate of assessment, altering the apportionment of assessments so long as no assessment is increased, or by reducing the principal amount of the proposed bonds. If the protests are against the proposed assessments and the board finds that the protests are signed by either the owners of more than 25 percent of the area of the land included within the proposed assessment district, or more than 25 percent of the registered voters, in the proposed district, who voted in the last gubernatorial election, the board may either abandon the proceedings or submit the proposal to the registered voters residing within the proposed district to be assessed at a general or special election to be held at least 45 days after the date of close of the hearing. Any election shall be conducted in accordance with the provisions of the Elections Code applicable to counties. The board may proceed with the levy and collection of the assessments and the sale of bonds if the proposal is approved by a majority vote of those who vote on the proposal. If the board abandons the proceedings or the proposition fails to win majority voter approval, no further proceedings to levy the proposed assessments pursuant to this chapter shall be undertaken for six months from the date of the election.

Sec. 117. If the board determines to proceed with the levy and collection of assessments and the sale of bonds, it shall adopt a resolution confirming the report, as modified, and ordering the levy of the assessments and the sale of bonds.

Article 2. Levy and Collection of Assessments

Sec. 120. The validity of any assessment levied or bond issued under this chapter shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the assessment is levied. Any appeal from a final judgment in such an action or proceeding shall be perfected within 30 days after the entry of judgment.

Sec. 121. An action to determine the validity of any assessment or bonds pursuant to this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code

of Civil Procedure. In any such action, all findings of fact or conclusions of the board upon all matters shall be conclusive unless the action was instituted within 30 days after the findings or conclusions were made.

Sec. 122. After one or more districts have been created and authorized to levy assessments pursuant to this chapter, the board may, by resolution, provide for the levy of the assessments using the method for apportioning the assessment and for setting the rate of assessment as set out in the report confirmed pursuant to Section 117. The clerk of the agency shall file a list of all parcels subject to assessments levied pursuant to this chapter and the amount of the assessment or assessments levied against each parcel, with the county auditor on or before August 10 of each tax year. The assessments shall be collected in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as provided for ad valorem taxes.

Article 3. Bonds

Sec. 130. The board may sell bonds or notes of the agency to finance projects as set out in the report confirmed pursuant to Section 117. The board shall authorize the issuance of bonds by adoption of a resolution which provides for all of the following:

(a) The denominations, form, and registration provisions of the bonds.

(b) The manner of execution of the sale of the bonds.

(c) The par amount of the bonds to be sold.

(d) The appointment of one or more banks or trust companies within the state having the necessary trust powers as trustee, fiscal agent, paying agent, or bond registrar.

(e) The execution of a document or indenture securing the bonds.

(f) The pledge or assignment of the designated assessment revenues to the repayment of the bonds.

(g) The interest rate to be borne by the bonds.

(h) Any other terms and conditions determined to be necessary by the board.

Sec. 131. The bonds shall be signed by the chairperson of the board, and countersigned by the Sacramento County Auditor. The bonds may be authenticated by a paying agent selected by the board, and the signatures of the chairman and Sacramento County Auditor may be facsimile signatures. In case any officer whose signature appears on the bonds shall cease to be an officer at any time, the signature shall nevertheless be valid and sufficient for all purposes.

Sec. 132. The board may sell bonds pursuant to this chapter at public or private sale at not less than 95 percent of par value. The proceeds of the sale of the bonds shall be placed in the treasury of Sacramento County to the credit of the agency and the issuing assessment district, and the proper record of the transaction shall be

placed upon the books of the Sacramento County treasury. The bond proceeds shall be used exclusively to finance or refinance projects pursuant to the report confirmed pursuant to Section 117.

Sec. 133. The board may include in the aggregate principal amount of the bonds to be issued an amount for a reserve fund for the payment of the bonds. The amount to be included for the reserve fund shall not exceed the amount permitted by law. The reserve fund and all interest earned on it shall either be used for the payment of debt service on the bonds, if there is a deficiency, and then only to the extent of the deficiency, or the funds may be transferred to the redemption fund for the bonds for advance or final retirement of the bonds.

Notwithstanding any provision of this section, the amount and disposition of the reserve fund may conform to the provisions of the Internal Revenue Code or the regulations of the United States Department of the Treasury.

Sec. 134. Any bonds or notes issued pursuant to this chapter may be refunded when and to the extent necessary as determined by the board.

CHAPTER 3. DEVELOPMENT FEES

Sec. 150. The board may by resolution prescribe, revise, and collect fees as a condition of development of land. Before adopting a schedule of fees, the board shall, by resolution, do all of the following:

(a) Describe the specific flood control projects that are needed or have been provided by the agency in one or more areas proposed for development in order that the area or areas meet flood protection standards as determined by the board.

(b) Estimate the cost of the projects and any associated environmental mitigation required and specify a plan for financing that cost, or estimate the amount that the agency has already spent on the projects and associated environmental mitigation, or both.

(c) Determine a tentative time schedule for construction of any projects which are not yet completed.

(d) Determine the reasonable portion of the cost of the projects to be apportioned to new development within the area protected by those projects.

(e) Adopt a schedule of fees to be levied against new development within the area pursuant to this chapter.

Sec. 151. Development of land for the purposes of this chapter shall include, but not be limited to, any act requiring a final subdivision map, building permit, zoning change or variance, or a special use permit, as determined by the board. No city or county within the agency shall permit any development without written confirmation from the agency that any fee levied pursuant to this chapter has been paid. In imposing any fee pursuant to this chapter, the agency shall rely upon the environmental impact report or other

environmental documentation used by any city or county which is a member of the agency in approving the proposed development.

Sec. 152. The portion of the cost of new projects to be apportioned to new development, and the apportionment of that cost against various categories of land use through the schedule of fees, shall be based on the portion of the benefits of flood protection which will accrue to each category of new development when the area benefiting from the flood protection is fully developed. The board shall be the final and conclusive judge of these matters.

Sec. 153. Fees and charges prescribed as a condition of development of land pursuant to this chapter shall be in addition to any other conditions imposed on the development by any other agency having power to prescribe such other conditions.

Sec. 154. In lieu of payment of any fee levied pursuant to this chapter, the agency may accept the lawful creation of an assessment district or community facilities district. Alternatively, in lieu of payment of the total fee prior to development, the agency may accept annual payments which include interest, administrative costs, and security to guarantee the payment of the total fee.

Sec. 155. Revenues derived from fees prescribed pursuant to this chapter for any area may be used only for the acquisition, engineering, design, construction, reconstruction, maintenance, or operation of flood control projects within that area, or used to pay the debt service on, or reduce the principal of, any bonded indebtedness of that area.

Sec. 156. Whenever the development of land is made subject to fees by the board pursuant to this chapter, the board may allow a credit against those fees for the acquisition, engineering, design, construction, reconstruction, maintenance, or operation costs of any flood control facility which has been constructed or paid for by the owner of the land proposed for the development and accepted by the agency. A credit against a fee imposed by the board for development also may be allowed if a development fee previously imposed by any county or city which is a member of the agency and which is in part for flood control purposes has been paid by the owner, provided that the agency has entered into an agreement with the county or city that the portion of that development fee allocated for flood control purposes is transferred to the agency.

Sec. 157. Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the Government Code does not apply to fees levied pursuant to this chapter.

CHAPTER 511

An act to amend Section 1985 of the Code of Civil Procedure, and to amend Sections 68097.2 and 68097.5 of the Government Code, relating to subpoenas, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 13, 1990.]

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

SECTION 1. Section 1985 of the Code of Civil Procedure is amended to read:

1985. (a) The process by which the attendance of a witness is required is the subpoena. It is a writ or order directed to a person and requiring the person's attendance at a particular time and place to testify as a witness. It may also require a witness to bring any books, documents, or other things under the witness's control which the witness is bound by law to produce in evidence. When a county recorder is using the microfilm system for recording, and a witness is subpoenaed to present a record, the witness shall be deemed to have complied with the subpoena if the witness produces a certified copy thereof.

(b) A copy of an affidavit shall be served with a subpoena duces tecum issued before trial, showing good cause for the production of the matters and things described in the subpoena, specifying the exact matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the case, and stating that the witness has the desired matters or things in his or her possession or under his or her control.

(c) The clerk, or a judge, shall issue a subpoena or subpoena duces tecum signed and sealed but otherwise in blank to a party requesting it, who shall fill it in before service. An attorney at law who is the attorney of record in an action or proceeding, may sign and issue a subpoena to require attendance before the court in which the action or proceeding is pending or at the trial of an issue therein, or upon the taking of a deposition in an action or proceeding pending therein; the subpoena in such a case need not be sealed. An attorney at law who is the attorney of record in an action or proceeding, may sign and issue a subpoena duces tecum to require production of the matters or things described in the subpoena.

SEC. 2. Section 68097.2 of the Government Code is amended to read:

68097.2. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, any fireman, any employee of the Department of Forestry who is a forester or fire control member, or any employee of the Department of Justice who is an analyst in a technical field, who is

obliged by a subpoena issued pursuant to Section 68097.1 to attend as a witness, shall receive the salary or other compensation to which he or she is normally entitled from the public entity by which he or she is employed during the time that he or she travels to and from the place where the court or other tribunal is located and while he or she is required to remain at that place pursuant to the subpoena. He or she shall also receive from the public entity by which he or she is employed the actual necessary and reasonable traveling expenses incurred by him or her in complying with the subpoena.

(b) The party at whose request the subpoena is issued shall reimburse the public entity for the full cost to the public entity incurred in paying the officer his or her salary or other compensation and traveling expenses as provided for in this section, for each day that the officer is required to remain in attendance pursuant to the subpoena. The amount of one hundred fifty dollars ($150), together with the subpoena, shall be tendered to the public entity for each day that the officer is required to remain in attendance pursuant to the subpoena.

(c) If the actual expenses should later prove to be less than the amount tendered, the excess of the amount tendered shall be refunded.

(d) If the actual expenses should later prove to be more than the amount deposited, the difference shall be paid to the public entity by the party at whose request the subpoena is issued.

(e) If a court continues a proceeding on its own motion, no additional witness fee shall be required prior to the issuance of a subpoena or the making of an order directing the officer to appear on the date to which the proceeding is continued.

SEC. 3. Section 68097.5 of the Government Code is amended to read:

68097.5. No employee of the Department of Justice who is a peace officer or an analyst in a technical field, member of the California Highway Patrol, peace officer member of the State Fire Marshal's Office, sheriff, deputy sheriff, marshal, deputy marshal, fireman, or city policeman shall be ordered to return by the court for subsequent proceedings beyond the day stated in the subpoena referred to in Sections 68097.1, 68097.2, 68097.3 and 68097.4, or the day upon which the witness appeared pursuant to the provisions of Section 68097.9, unless the party at whose request the subpoena was issued or the party at whose request the witness is ordered to return, shall first tender to the public entity by which the witness is employed the same sum required to be tendered for the issuance of a subpoena in the first instance.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to alleviate, as soon as possible, the confusion and unnecessary court costs resulting from a lack of uniform treatment of the provisions on subpoenas by court clerks, it is necessary that this bill go into effect immediately.

CHAPTER 512

An act to add Section 731.5 to the Streets and Highways Code, relating to highways.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 13, 1990.]

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

SECTION 1. Section 731.5 is added to the Streets and Highways Code, to read:

731.5. Section 731 does not apply to a coin-activated or credit card-activated telephone available for public use shared and maintained within any bus passenger shelter lawfully erected upon any state highway other than a freeway or expressway if the person placing the telephone has obtained a permit from the department pursuant to Section 670.

CHAPTER 513

An act to amend Section 70.1 of the Labor Code, relating to the Industrial Welfare Commission.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 13, 1990]

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

SECTION 1. Section 70.1 of the Labor Code is amended to read:

70.1. The Industrial Welfare Commission shall be composed of two representatives of organized labor who are members of

recognized labor organizations, two representatives of employers, and one representative of the general public. The membership shall include members of both sexes.

CHAPTER 514

An act to repeal and add Section 3351.5 of the Business and Professions Code, relating to hearing aid dispensers, and making an appropriation therefor.

[Approved by Governor August 10, 1990. Filed with Secretary of State August 13, 1990.]

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

SECTION 1. Section 3351.5 of the Business and Professions Code is repealed.

SEC. 2. Section 3351.5 is added to the Business and Professions Code, to read:

3351.5. (a) Hearing aids may be sold by catalog or direct mail provided that:

(1) The seller is licensed as a hearing-aid dispenser in this state.

(2) There is no fitting, selection, or adaptation of the instrument and no advice is given with respect to fitting, selection, or adaptation of the instrument and no advice is given with respect to the taking of an ear impression for an earmold by the seller.

(3) The seller has received a statement which is signed by a physician and surgeon, audiologist, or a hearing-aid dispenser, licensed by the State of California which verifies that Section 3365.5 and subdivision (b) of Section 3427.5 have been complied with.

(b) A copy of the statement referred to in paragraph (3) of subdivision (a) shall be retained by the seller for the period provided for in Section 3366.

(c) A licensed hearing-aid dispenser who sells a hearing aid under this section shall not be required to comply with subdivision (b) of Section 3427.5.

CHAPTER 515

An act to amend Sections 1724 and 1724.5 of the Business and Professions Code, relating to dentistry, and making an appropriation therefor.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 13, 1990.]

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

SECTION 1. Section 1724 of the Business and Professions Code is amended to read:

1724. The amount of charges and fees for dentists licensed pursuant to this chapter shall be fixed by the board as is necessary for the purpose of carrying out the responsibilities required by this chapter as it relates to dentists, subject to the following limitations:

(a) The fee for application for examination shall not exceed two hundred fifty dollars ($250).

(b) The fee for application for reexamination shall not exceed one hundred dollars ($100).

(c) The fee for examination and for reexamination shall not exceed four hundred fifty dollars ($450). Applicants who are found to be ineligible to take the examination shall be entitled to a refund in an amount fixed by the board.

(d) The fee for an initial license and for the renewal of a license shall not exceed two hundred fifty dollars ($250).

(e) The delinquency fee shall be the amount prescribed by Section 163.5.

(f) The penalty for late registration of change of place of practice shall not exceed fifty dollars ($50).

(g) The application fee for permission to conduct an additional place of practice shall not exceed two hundred dollars ($200).

(h) The renewal fee for an additional place of practice shall not exceed one hundred dollars ($100).

(i) The fee for issuance of a substitute certificate shall not exceed one hundred dollars ($100).

(j) The fee for a provider of continuing education shall not exceed two hundred fifty dollars ($250) per year.

(k) The fee for application for a referral service permit and for renewal of that permit shall not exceed twenty-five dollars ($25).

(*l*) The fee for application for an extramural facility permit and for the renewal of a permit shall not exceed twenty-five dollars ($25).

The board shall report to the appropriate fiscal committees of each house of the Legislature whenever the board increases any fee pursuant to this section and shall specify the rationale and justification for that increase.

SEC. 2. Section 1724.5 of the Business and Professions Code is amended to read:

1724.5. The amount of fees payable in connection with permits issued under Section 1701.5 is as follows:

(a) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dentistry in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the board at not more than the then current amount of the renewal fee for a license to practice dentistry nor less than five dollars ($5).

CHAPTER 516

An act to amend Sections 10108.5, 10500.5, and 10501 of the Public Contract Code, and to amend Sections 8281, 8282, 8283, 8284, and 8285 of the Public Utilities Code, relating to veterans.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 13, 1990]

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

SECTION 1. Section 10108.5 of the Public Contract Code is amended to read:

10108.5. (a) (1) Contracts let by the Department of Corrections for the construction, erection, alteration, repair, or improvement of state prison facilities shall have as statewide participation goals 15 percent minority business enterprise, 5 percent women business enterprise, and 3 percent disabled veteran business enterprise, exclusive of inmate day labor contracts. These goals apply to the overall dollar amount expended each year by the department for these purposes.

(2) The term "minority business enterprise" means a business concern (A) that is 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; and (B) whose management and daily business operations are controlled by one or more such individuals.

(3) The term "women business enterprise" means a business concern (A) that is 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; and (B) whose management and daily business operations are controlled by one or more such individuals.

(4) "Minority business enterprise" and "women business enterprise" include an enterprise of which 50 percent is owned and

controlled by one or more minorities and the other 50 percent is owned and controlled by one or more women or, in the case of a publicly owned business, 50 percent of the stock of which is owned and controlled by one or more minorities and the other 50 percent *is owned and controlled* by one or more women or, in the case of a publicly owned business, 50 percent of the stock of which is owned and controlled by one or more minorities and the other 50 percent is owned and controlled by one or more women. Any business enterprise so defined may be counted as either a minority business enterprise or a women business enterprise for purposes of meeting the participation goals, but no one such business enterprise shall be counted as meeting the participation goals in both categories.

(5) The term "disabled veteran business enterprise" has the same meaning as defined in subdivision (g) of Section 999 of the Military and Veterans Code.

(6) The term "goal" means a numerically expressed objective that awarding departments and contractors are required to make efforts to achieve.

(7) Notwithstanding any other provision of this subdivision, the department may, at its discretion, exempt from the statewide participation goals of this subdivision, and exempt from subdivision (b), contracts for an amount of ten thousand dollars ($10,000) or less.

(b) (1) In awarding contracts to the lowest responsible bidder, the department shall consider the efforts of a bidder to meet minority business enterprise, women business enterprise, and disabled veteran business enterprise goals set forth in subdivision (a). The department shall award the contract to the lowest responsible bidder meeting or making good faith efforts to meet these goals.

(2) A bidder shall be deemed to have made good faith efforts upon submittal, within time limits specified by the department, of documentary evidence that all of the following actions were taken:

(A) Contact was made with the department to identify minority, women, and disabled veteran business enterprises.

(B) Contact was made with other state and federal agencies, and with local minority, women, and disabled veteran business enterprise organizations to identify minority, women, and disabled veteran business enterprises.

(C) Advertising was published in trade papers and papers focusing on minority, women, and disabled veteran business enterprises, unless time limits imposed by the department do not permit that advertising.

(D) Invitations to bid were submitted to potential minority, women, and disabled veteran business enterprise contractors.

(E) Available minority, women, and disabled veteran business enterprises were considered.

(3) (A) Nothing in this article authorizes the department to discriminate in the awarding of any contract on the basis of race, color, sex, ethnic origin, or ancestry.

(B) Nothing in this article authorizes any contractor to discriminate in the solicitation or acceptance of bids for subcontracting, or for materials or equipment, on the basis of race, color, sex, ethnic origin, or ancestry.

(c) The department shall establish a method of monitoring adherence to the goals specified in subdivision (a).

(d) The department shall adopt rules and regulations for the purpose of implementing this section.

(e) The department shall, on or before each July 1, report to the Governor and the Legislature on the level of participation by minority, women, and disabled veteran business enterprises in contracts as identified in subdivision (a). If the established goals are not being met, the department shall report the reasons for its inability to achieve the standards and identify remedial steps it shall take.

(f) In implementing this section, the department shall utilize existing resources such as the Office of Small and Minority Business, the Minority Business Development Agency, and the Small Business Administration.

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

SEC. 2. Section 10500.5 of the Public Contract Code is amended to read:

10500.5. It is the intent of the Legislature to facilitate the participation of small businesses, particularly small disadvantaged or minority business enterprises, women business enterprises, and disabled veteran business enterprises, in business contracting with the University of California. The Legislature intends that the Regents of the University of California adopt policies and procedures to ensure that a fair proportion of university contracts be placed with small business enterprises, particularly small disadvantaged, women, and disabled veteran business enterprises, in areas of commodity purchases, services, and construction contracts. It is further the intent of the Legislature that the regents adopt, by January 1, 1985, with respect to small business enterprises, particularly small disadvantaged and women business enterprises, and by January 1, 1992, with respect to disabled veteran business enterprises, policies and procedures that include, but are not limited to, all of the following:

(a) Annual targets for utilization of small businesses, particularly disadvantaged business enterprises, women business enterprises, and disabled veteran business enterprises, including subcontracts for construction.

(b) Annual statistical reports on the participation of small businesses, particularly disadvantaged business enterprises, women business enterprises, and disabled veteran business enterprises, as

general contractors and subcontractors in each project.

(c) Outreach programs.

(d) Directories of disadvantaged business enterprises, women business enterprises, and disabled veteran business enterprises.

(e) Monitoring by the regents of progress with respect to the utilization of disadvantaged business enterprises, women business enterprises, and disabled veteran business enterprises.

It is also the intent of the Legislature that the Regents of the University of California report annually to the Legislature, on or before each July 1, on the participation of small disadvantaged business enterprises, women business enterprises, and disabled veteran business enterprises in university business contracting.

SEC. 3. Section 10501 of the Public Contract Code is amended to read:

10501. Except as otherwise provided in this article, the Regents of the University of California shall let any contract for a project to the lowest responsible bidder or else reject all bids. However, if one or more of the bids is substantially equal to the lowest bid, and at least one of those bidders is a disadvantaged business enterprise, a women business enterprise, or a disabled veteran business enterprise, the regents may award the contract in accordance with the policies and procedures adopted pursuant to Section 10500.5. If the regents deem it to be for the best interest of the university, the regents may, on the refusal or failure of the successful bidder for a project to execute a tendered contract, award it to the second lowest responsible bidder. If the second lowest bidder fails or refuses to execute the contract, the regents may likewise award it to the third lowest responsible bidder.

SEC. 4. Section 8281 of the Public Utilities Code is amended to read:

8281. (a) The Legislature hereby finds and declares that the essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, reasonable and just prices, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. The preservation and expansion of that competition is basic to the economic well-being of this state and that well-being cannot be realized unless the actual and potential capacity of women, minority, and disabled veteran business enterprises is encouraged and developed. Therefore, it is the declared policy of the state to aid the interests of women, minority, and disabled veteran business enterprises in order to preserve reasonable and just prices and a free competitive enterprise, to ensure that a fair proportion of the total purchases and contracts or subcontracts for commodities, supplies, technology, property, and services for regulated utilities are awarded to women, minority, and disabled veteran business enterprises, and to maintain and strengthen the overall economy of the state.

(b) (1) The Legislature finds all of the following:

(A) The opportunity for full participation in our free enterprise system by women, minority, and disabled veteran business enterprises is essential if this state is to attain social and economic equality for those businesses and improve the functioning of the state economy.

(B) Public agencies which have established short- and long-range women, minority, and disabled veteran business enterprise goals are awarding 30 percent or more of their contracts to these business enterprises.

(C) Women, minority, and disabled veteran business enterprises have traditionally received less than a proportionate share of regulated public utility procurement contracts.

(D) It is in the state's interest to expeditiously improve the economically disadvantaged position of women, minority, and disabled veteran business enterprises.

(E) The position of these businesses can be improved by providing long-range substantial goals for procurement by regulated public utilities of technology, equipment, supplies, services, materials, and construction work from women, minority, and disabled veteran businesses.

(F) That procurement also benefits the public utilities and consumers of the state by encouraging the expansion of the number of suppliers for procurements, thereby encouraging competition among the suppliers and promoting economic efficiency in the process.

(2) It is the purpose of this article to do all of the following:

(A) Encourage greater economic opportunity for women, minority, and disabled veteran business enterprises.

(B) Promote competition among regulated public utility suppliers in order to enhance economic efficiency in the procurement of electrical, gas, and telephone corporation contracts and contracts of their commission-regulated subsidiaries and affiliates.

(C) Clarify and expand the program for the procurement by regulated public utilities of technology, equipment, supplies, services, materials, and construction work from women, minority, and disabled veteran business enterprises.

SEC. 5. Section 8282 of the Public Utilities Code is amended to read:

8282. For the purposes of this article, the following definitions apply:

(a) "Women business enterprise" means a business enterprise that is at least 51 percent owned by a woman or women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more of those individuals.

(b) "Minority business enterprise" means a business enterprise that is at least 51 percent owned by a minority group or groups; or,

in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minority groups, and whose management and daily business operations are controlled by one or more of those individuals. The contracting utility shall presume that minority includes Black Americans, Hispanic Americans, Native Americans, and Asian Pacific Americans.

(c) "Disabled veteran business enterprise" has the same meaning as defined in subdivision (g) of Section 999 of the Military and Veterans Code.

(d) "Control" means exercising the power to make policy decisions.

(e) "Operate" means being actively involved in the day-to-day management and not merely officers or directors.

SEC. 6. Section 8283 of the Public Utilities Code is amended to read:

8283. (a) The commission shall require each electrical, gas, and telephone corporation with gross annual revenues exceeding twenty-five million dollars ($25,000,000) and their commission-regulated subsidiaries and affiliates, to submit annually, a detailed and verifiable plan for increasing women, minority, and disabled veteran business enterprise procurement in all categories.

(b) These annual plans shall include short- and long-term goals and timetables, but not quotas, and shall include methods for encouraging both prime contractors and grantees to engage women, minority, and disabled veteran business enterprises in subcontracts in all categories which provide subcontracting opportunities.

(c) The commission shall establish guidelines for all electrical, gas, and telephone corporations with gross annual revenues exceeding twenty-five million dollars ($25,000,000) and their commission-regulated subsidiaries and affiliates, to be utilized in establishing programs pursuant to this article.

(d) Every electrical, gas, and telephone corporation with gross annual revenues exceeding twenty-five million dollars ($25,000,000) shall furnish an annual report to the commission regarding the implementation of programs established pursuant to this article in a form that the commission shall require, and at the time that the commission shall annually designate.

(e) The commission shall provide a report to the Legislature on September 1 of each year, on the progress of activities undertaken by each electrical, gas, and telephone corporation with gross annual revenues exceeding twenty-five million dollars ($25,000,000) pursuant to this article in the implementation of women, minority, and disabled veterans business enterprise development programs. The commission shall recommend a program for carrying out the policy declared in this article, together with recommendations for legislation that it deems necessary or desirable to further that policy.

SEC. 7. Section 8284 of the Public Utilities Code is amended to read:

8284. (a) The commission shall, by rule or order, adopt criteria

for verifying and determining the eligibility of women, minority, and disabled veteran business enterprises for procurement contracts.

(b) The commission shall develop, and require every electrical, gas, and telephone corporation with gross annual revenues exceeding twenty-five million dollars ($25,000,000) and their commission-regulated subsidiaries and affiliates to implement, an outreach program to inform and recruit women, minority, and disabled veteran business enterprises to apply for procurement contracts under this article.

SEC. 8. Section 8285 of the Public Utilities Code is amended to read:

8285. Any person or corporation, through its directors, officers, or agents, which falsely represents a business as a women, minority, or disabled veteran business enterprise in the procurement of, or attempt to procure, contracts from an electrical, gas, or telephone corporation with gross annual revenues exceeding twenty-five million dollars ($25,000,000), or a commission-regulated subsidiary or affiliate subject to this article, shall be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment in the county jail for not to exceed one year or in the state prison for not to exceed five years, or by both that fine and imprisonment. In the case of a corporation, the fine or imprisonment, or both, shall be imposed on every director, officer, or agent responsible for the false statements.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 517

An act to add Section 40709.6 to the Health and Safety Code, relating to air pollution.

[Approved by Governor August 10, 1990 Filed with Secretary of State August 13, 1990]

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

SECTION 1. Section 40709.6 is added to the Health and Safety Code, to read:

40709.6. Increases in emissions of air contaminants at a stationary source located in a district may be offset by emission reductions

credited to a stationary source located in another district where both sources are located in the same air basin. The district in which the source of emission reductions is located shall determine the type and quantity of emission reductions to be credited. The district in which the proposed source of emission increases is located shall determine the impact of these emissions reductions in mitigation of the emission increases in the same manner and to the same extent as the district would do so for fully credited emission reductions from sources located within its boundaries.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 518

An act to amend Section 830.7 of the Penal Code, to amend Sections 5384.1, 5384.5, 5389, and 5413.5 of, and to add Sections 5360.5, 5371.4, 5387.5, 5391.5, and 5415.5 to, the Public Utilities Code, and to amend Section 1820 of the Vehicle Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 13, 1990 Filed with Secretary of State August 13, 1990]

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

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

(a) The Passenger Charter-Party Carriers' Act has as its central purpose the preservation for the public benefit full use of public highways without unnecessary congestion or wear and tear upon the highways. It is unlawful for any charter-party carrier of passengers to operate upon the public highways without first having obtained operating authority from the Public Utilities Commission.

(b) The Passenger Charter-Party Carriers' Act further provides that no charter-party carrier of passengers issued a certificate by the commission shall be restricted as to point of origin or destination in the State of California, pursuant to the operating authority issued it by the commission.

(c) In order to enforce the requirements of the Passenger Charter-Party Carriers' Act, the commission requires that each charter-party carrier of passengers in this state pay an annual fee plus

a percentage of its gross annual revenues to the commission in order to regulate these carriers.

(d) Recently, various governing boards of airports and municipalities have introduced regulatory schemes, encompassing licensing fees, increased insurance requirements, and administrative costs in the form of trip charges, which have as their purpose the enforcement of the regulations embodied in the Passenger Charter-Party Carriers' Act with respect to the operations of those carriers operating limousines.

(e) Regulations that are duplicative have created an undue economic hardship on many charter-party carriers of passengers operating limousines.

SEC. 1.3. Section 830.7 of the Penal Code is amended to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they successfully complete a course in the exercise of those powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for institutions of higher education, recognized under subdivision (a) of Section 94310.1 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or chief of police within whose jurisdiction the institution lies.

(c) Persons regularly employed as security officers for health facilities, as defined in Section 1250 of the Health and Safety Code, which are owned and operated by cities, counties, and cities and counties, if the facility has concluded a memorandum of understanding permitting the exercise of that authority with the sheriff or chief of police within whose jurisdictions the facility lies.

(d) Employees of the California Department of Forestry and Fire Protection designated by the Director of Forestry and approved by the Secretary of the Resources Agency.

(e) Employees of the Public Utilities Commission assigned to the Transportation Division, designated by the division director and approved by the commission, to the extent necessary to enforce the provisions of the Public Utilities Code. These employees may exercise the power to serve warrants as specified in Sections 1523 and 1530 during the course and within the scope of their employment, if they receive a course in the exercise of those powers pursuant to Section 832.

SEC. 1.5. Section 5360.5 is added to the Public Utilities Code, to read:

5360.5. (a) Charter-party carriers of passengers shall operate on a prearranged basis at airports within this state.

(b) For purposes of this section, "prearranged basis" means that the transportation of the prospective passenger was arranged with

the carrier either prior to the passenger's arrival at the airport or by telephone after arrival, or with an authorized airport concessionaire pursuant to Sections 21690.5 to 21690.9, inclusive.

SEC. 2. Section 5371.4 is added to the Public Utilities Code, to read:

5371.4. (a) The governing body of any city, county, or city and county may not impose a fee on charter-party carriers operating limousines; however the governing body of any city, county, or city and county may impose a business license fee on, and may adopt and enforce any reasonable rules and regulations pertaining to operations within its boundaries for, any charter-party carrier domiciled or maintaining a business office within that city, county, or city and county.

(b) The governing body of any airport may not impose vehicle safety, vehicle licensing, or insurance requirements on charter-party carriers operating limousines that are more burdensome than those imposed by the commission. However, the governing board of any airport may require a charter-party carrier operating limousines to obtain an airport permit for operating authority at the airport.

(c) Notwithstanding subdivisions (a) and (b), the governing body of any airport may adopt and enforce reasonable and nondiscriminatory local airport rules, regulations, and ordinances pertaining to access, use of streets and roads, parking, traffic control, passenger transfers, trip fees, and occupancy, and the use of buildings and facilities, which are applicable to charter-party carriers operating limousines on airport property.

(d) This section does not apply to any agreement entered into pursuant to Sections 21690.5 to 21690.9, inclusive, between the governing body of an airport and charter-party carriers operating limousines.

(e) The commission shall conduct an audit and review of the annual gross revenues earned by charter-party carriers operating limousines for the purpose of ascertaining whether the imposition of additional fees based on a charter-party carrier's gross annual revenues would place an undue administrative or financial burden on the charter-party carrier industry. The commission shall report its findings to the Legislature on or before June 30, 1992.

(f) The governing body of any airport shall not impose a fee based on gross receipts until the commission issues the report described in subdivision (e). The moratorium on the imposition of a fee based on gross receipts shall expire on January 1, 1994, unless renewed by the Legislature.

(g) Notwithstanding subdivisions (a) to (f), inclusive, nothing in this section prohibits a city, county, city and county, or the governing body of any airport, from adopting and enforcing reasonable permit requirements, fees, rules, and regulations applicable to charter-party carriers of passengers other than those operating limousines.

(h) For the purposes of this section, "limousine" includes any luxury sedan, of either standard or extended length, with a seating

capacity of not more than nine passengers including the driver, used in the transportation of passengers for hire on a prearranged basis to or from airports within this state.

SEC. 2.1. Section 5384.1 of the Public Utilities Code is amended to read:

5384.1. (a) The driver of any limousine for hire operated by a charter-party carrier of passengers under a valid certificate or permit shall do all of the following:

(1) The driver shall ascertain whether any passenger is under the age of 21 years.

(2) If any passenger is under the age of 21 years, the driver shall read to the passenger a statement that the consumption of any alcoholic beverage in the vehicle is unlawful, that no alcoholic beverage may be transported in the passenger compartment of the vehicle, that all alcoholic beverages are required to be carried in the vehicle trunk or other locked compartment, and that, if during the course of the ride any minor is found to be, or to have been, consuming any alcoholic beverage, the contract will be terminated and the customer will be brought back to the point of origin of the ride.

(3) After reading the statement described in paragraph (2) to every passenger under the age of 21 years, the driver shall require every passenger under the age of 21 years to sign the statement. The limousine operator shall retain the signed statement for the period required by the commission.

(4) If any minor passenger, after signing a statement pursuant to paragraph (3), is found to be, or to have been, consuming any alcoholic beverage during the course of any ride subject to this section, the driver shall immediately terminate the contract of hire and shall return the passengers to the point of origin of the ride.

(b) Any failure of a driver to comply with subdivision (a) that results in the conviction of the driver of a violation of Section 23225 of the Vehicle Code, shall be subject to the penalties prescribed in Section 5384.5.

(c) Notwithstanding any other provision of law, this section does not apply to the driver of any bus, taxicab, or van, and it does not prohibit a parent or legal guardian from consuming alcoholic beverages in a limousine for hire while accompanied by his or her minor children.

SEC. 2.2. Section 5384.5 of the Public Utilities Code is amended to read:

5384.5. If the driver of any limousine for hire operating under a valid certificate or permit, or any officer, director, agent, or employee of a charter-party carrier of passengers operating limousines for hire under such a certificate or permit, is convicted of a violation of Section 23225 of the Vehicle Code, the commission, after a hearing, shall do the following:

(a) For a first offense, the commission may impose a civil penalty of not more than two thousand dollars ($2,000) upon the carrier, as

determined appropriate by the commission.

(b) For a second offense, the commission may impose a civil penalty of not more than two thousand dollars ($2,000) upon the carrier or suspend the carrier's permit for not more than 30 days, or both, as determined appropriate by the commission.

(c) For a third offense, the commission shall revoke the carrier's permit.

SEC. 2.4. Section 5389 of the Public Utilities Code is amended to read:

5389. (a) The commission, each commissioner, and each officer and person employed by the commission may, at any time have access to the land, buildings, or equipment of a charter-party carrier of passengers used in connection with the operation of its business and may inspect the accounts, books, papers, and documents of the carrier. Any inspection by the commission may include photocopying or the electrostatic or photostatic reproduction of documents either at the premises of the carrier or the offices of the commission, at the option of the carrier. The commission shall reimburse the carrier for any copying or reproduction expenses incurred by it at the direction of the commission.

(b) Subdivision (a) also applies to access to property and inspections of the accounts, books, papers, and documents of any business which is a subsidiary or affiliate of, or a corporation which holds a controlling interest in, a charter-party carrier of passengers with respect to any transaction between the carrier and the subsidiary, affiliate, or holding corporation.

(c) Subdivisions (a) and (b) also apply to any person or corporation engaged in the transportation of persons by motor vehicle for compensation, which the commission, or an officer or person employed by the commission, determines is holding itself out as a charter-party carrier of passengers.

SEC. 2.5. Section 5387.5 is added to the Public Utilities Code, to read:

5387.5. When the commission or an employee of the commission determines that any person or corporation is holding itself out as a charter-party carrier of passengers without a certificate or permit to so operate, the carrier shall pay the commission the fee established pursuant to Section 421 for the period during which it operated without authority, up to a maximum of three years, which fee shall be deposited in the Public Utilities Commission Transportation Reimbursement Account.

SEC. 3. Section 5391.5 is added to the Public Utilities Code, to read:

5391.5. The commission shall commence a rulemaking proceeding to develop uniform operating standards applicable to charter-party carriers of passengers. The rulemaking proceeding shall include, but shall not be limited to, a consideration of all of the following issues:

(a) Whether current insurance limits provide sufficient liability

coverage for charter-party carriers to operate to any point in this state.

(b) Whether the commission's requirements concerning the maintenance of records is sufficient to permit the safe operation of charter-party carriers to any point in this state.

(c) Whether the commission's current procedures for the issuance of operating authority are creating unnecessary congestion upon the roads of this state.

SEC. 3.5. Section 5413.5 of the Public Utilities Code is amended to read:

5413.5. Whenever the commission, after hearing, finds that any person or corporation is operating as a charter-party carrier of passengers without a valid certificate or permit, or fails to include in any public advertisement the number of the permit or identifying symbol required by Section 5386, the commission may impose a fine of not more than five thousand dollars ($5,000) for each violation. The commission may assess the person or corporation an amount sufficient to cover the reasonable expense of investigation incurred by the commission. The commission may assess interest on any fine or assessment imposed, to commence on the day the payment of the fine or assessment becomes delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in the General Fund.

SEC. 4. Section 5415.5 is added to the Public Utilities Code, to read:

5415.5. When the executive director of the commission determines that any charter-party carrier of passengers, or any officer, director, or agent of any charter-party carrier of passengers, has engaged in, is engaged in, or is about to engage in, any acts or practices in violation of this chapter, or any order, decision, rule, regulation, direction, demand, or requirement issued under this chapter, the executive director may make application to the superior court for an order enjoining those acts or practices or for an order directing compliance. The court may grant a permanent or temporary injunction, restraining order, or other order upon a showing by the executive director that a person or corporation has engaged in or is about to engage in these acts or practices.

SEC. 4.5. Section 1820 of the Vehicle Code is amended to read:

1820. (a) The prospective employer of a driver of a limousine for hire operated by a charter-party carrier of passengers pursuant to a certificate of public convenience and necessity or permit issued by the Public Utilities Commission shall obtain a report showing the driver's current public record as recorded by the department.

(b) Whenever a person is hired as the driver of a limousine for hire, the employer shall make a request to the department to participate in a pull notice system, which is a process for the purpose of providing an employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license

suspensions, driver's license revocations, or any other actions taken against the person's driving privilege added to the driver's record while the employer's notification request remains valid and uncanceled.

(c) Upon the termination of a driver's employment, the employer shall notify the department to cancel the employer's request for reports provided pursuant to this section.

(d) An employer who, after receiving the report of a person's driving record pursuant to this section, employs or continues to employ as a driver any person against whom a disqualifying action has been taken regarding his or her driving privilege is guilty of a public offense and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(e) A request to participate in the pull notice system pursuant to this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811.

SEC. 5. The sum of two hundred nine thousand dollars ($209,000) is hereby appropriated to the Public Utilities Commission from the the Public Utilities Commission Transportation Reimbursement Account in the General Fund for the purposes of conducting the rulemaking proceeding pursuant to Section 5391.5 of the Public Utilities Code.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to eliminate inconsistencies in the regulation of charter-party carriers of passengers operating limousines for hire and prohibit misleading advertising practices and eliminate certain duplication of regulation affecting other charter-party carriers, and to extend to employees of the Public Utilities Commission's Transportation Division the power to serve search warrants at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 519

An act to amend Sections 51226, 52910, and 52911 of, and to add Chapter 14 (commencing with Section 52980) to Part 28 of, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor August 13, 1990 Filed with Secretary of State August 13, 1990]

I am deleting the $150,000 appropriation contained in Section 5 of Assembly Bill No 1953

This bill would appropriate $150,000 to establish six vocational education pilot projects to begin in May 1991 and to continue through April 1994 The purpose of these pilot projects would be to provide alternative courses of study that would meet graduation requirements and produce immediately employable graduates This bill would also require the State Department of Education to develop vocational model curriculum standards that provide alternative means for pupils to meet high school graduation requirements and require the State Board of Education to approve the standards by May 1, 1991.

I am opposed to the $150,000 appropriation for the pilot projects in this bill Existing law authorizes local education agencies to use their vocational education funds to identify a local vocational education curriculum that satisfies, in part, high school graduation requirements School districts that choose to provide vocational education instruction may use the standards developed by the Department of Education and redirect their vocational education funds to implement a program along the lines of the pilot project

With this deletion, I approve Assembly Bil No 1953

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 51226 of the Education Code is amended to read:

51226. (a) The Superintendent of Public Instruction shall coordinate the development, on a cyclical basis, of model curriculum standards for the course of study required by Section 51225.3 and for a vocational education course of study necessary to assist school districts with complying with subdivision (b) of Section 51228. The superintendent shall review currently available textbooks in conjunction with the curriculum standards. The superintendent shall seek the advice of classroom teachers, school administrators, parents, postsecondary educators, and representatives of business and industry in developing these curriculum standards. The superintendent shall recommend policies to the State Board of Education for consideration and adoption by the board. The State Board of Education shall adopt these policies no later than January 1, 1985. However, neither the superintendent nor the board shall adopt rules or regulations for course content or methods of instruction. The standards for a vocational education course of study shall be adopted by the State Board of Education no later than May 1, 1991.

(b) Not less than every three years, the governing board of each school district shall compare local curriculum, course content, and course sequence with the standards adopted pursuant to subdivision

(a).

SEC. 2. Section 52910 of the Education Code is amended to read:

52910. The Legislature hereby finds and declares all of the following:

(a) That California's present employment preparation and career education programs need to be strengthened and expanded to meet the needs of employers for a skilled work force and student and employee demands for career-vocational preparation and occupational training, including the use of computers and other technologies.

(b) That changes occurring in California's economy make it imperative that there be available a work force with the personal and occupational skills and knowledge to productively support new economic and technological developments. The Legislature also finds a need to improve coordination among the many service providers funded by federal and state funds to avoid unnecessary duplication of programs and services.

(c) That it is in the best interest of the state to provide all students with a cohesive and well articulated system of career-vocational preparation and occupational training which prepares students for roles as family members and community members, leaders, and productive workers. The Legislature also finds that the alternative means authorized in subdivision (b) of Section 51225.3 are currently being underutilized by school districts.

(d) That students in California's public schools face inadequate access to quality career-vocational preparation and occupational training programs, and declares that providing high quality curriculum and instruction in this area is a high priority of the state. The Legislature believes that all students should be prepared with basic job entry skills at the completion of their schooling.

(e) That every student shall attain a minimum of 12 years of systematic study or its equivalent that effectively prepares the student to enter college, a job, or advanced preparation.

(f) That the number of pupils who drop out of school is excessive and detrimental to the public interest, as is the excessively high rate of unemployment among youths.

(g) That dropping out of school reduces a young person's potential for future employment and income, and depresses the productivity of the state's economy.

(h) That it is in the state's best interests to provide all pupils with a cohesive, defined, and well-articulated system of career education and job training.

(i) That pupils enrolled in public intermediate, secondary, and postsecondary schools face diminished access to quality vocational and career educational programs, and that the provision of a high quality curriculum and course of instruction in these areas are a high priority within the state.

(j) That a pupil's pursuit of career education programs in secondary schools and their use to satisfy the requirements for

admission to baccalaureate postsecondary educational programs should not be mutually exclusive.

(k) That vocational education and basic academic skills should not be viewed as competitive or alternative programs, but rather should be viewed as complementary educational programs.

(*l*) That there are many opportunities, particularly for pupils who are not college bound, to obtain basic academic skills in an applied manner through vocational education programs.

It is the intent of the Legislature in enacting this chapter to require that all pupils enrolled in the public schools be afforded the best possible opportunity to complete the equivalent of 12 years of systematic training to enable him or her to graduate from high school, in a manner which will enable him or her to advance to a college or university and to meet entry-level requirements for a chosen occupational field. The Legislature recognizes that in order to graduate from high school, pupils must complete the prescribed course of study of sufficient rigor and duration as necessary to enable them to effectively function as family members, citizens, leaders, and working members of their communities.

SEC. 3. Section 52911 of the Education Code is amended to read:

52911. For purposes of this chapter, the following definitions shall apply:

(a) "Applied academic areas" means the subject matter areas of agriculture, business and office education, marketing, consumer and homemaking education, health careers, home economic related occupations, and industrial arts, technical, trade and industrial education and methodologies including, but not limited to, work experience education, cooperative vocational education, and community classroom.

(b) "Applied academic programs" means programs that teach and reinforce academic, technical, and employability skills, necessary for employment or advanced training, in applied academic areas.

SEC. 4. Chapter 14 (commencing with Section 52980) is added to Part 28 of the Education Code, to read:

CHAPTER 14. PILOT PROJECTS IN APPLIED ACADEMIC AREAS AND PROGRAMS

52980. (a) In accordance with the requirements of this chapter, the State Department of Education shall select six school districts maintaining any of grades 7 to 12, inclusive, to participate in pilot projects in applied academic areas and programs. The pilot projects shall commence in May 1991, and continue through April 1994. The purpose of the pilot projects shall be to provide opportunities for pupils to attain academic interpersonal and entry-level employment skills upon graduation from high school pursuant to Sections 51225.3 and 51228. These program areas shall include, but shall not be limited to, the applied academic areas of agriculture, business and office

education, marketing, health careers, consumer and homemaking education, home economic-related occupations, industrial arts, technical education, and trade and industrial education. School districts which elect to participate in the pilot project, and which are selected by the department, shall receive a one-time grant in an amount not to exceed thirty thousand dollars ($30,000) for the purpose of administering the pilot project.

The department shall ensure that school districts selected to participate in the pilot projects are representative of large, medium, and small school districts, and school districts from rural, suburban, and urban areas. In order to be eligible to participate in the pilot projects, a school district must be in the top 30th percentile of school districts in terms of high school dropout rates.

(b) As used in this chapter, "interpersonal skills" means appropriate listening skills, the ability to communicate effectively through writing and speaking, the ability to solve problems cooperatively and to negotiate solutions, the ability to take responsibility for the person's own work, and the ability to work productively with others.

52981. (a) The governing board of each school district participating in the pilot project, with the active involvement of existing school district advisory committees, parents, teachers, and pupils, shall prescribe alternative methods for pupils to complete the prescribed course of study for high school graduation, which may include, but are not limited to, practical demonstration of skills and competencies, supervised work experience or other outside school experience, interdisciplinary study, independent study, and credit earned while enrolled in a postsecondary educational institution. Pursuant to the requirements of subdivision (b) of Section 51225.3, the requirements for graduation and the alternative methods for completing the prescribed course of study shall be made available to pupils, parents, and the public.

(b) Each school district participating in the pilot project shall develop an academic course of study for the general education of all pupils and for preparation of pupils to graduate at a level of achievement sufficient for admission to public or private postsecondary educational institutions.

The adopted course of study shall also include applied academic areas and programs which enable pupils to graduate with the skills necessary for entry-level occupational fields. These applied academic programs shall be designed to be of sufficient rigor and duration to meet the school district's approval that the course of study meets the requirements for high school graduation and to provide pupils the opportunity for admission to a postsecondary educational program or advanced training program.

Each pupil shall be provided the opportunity, at his or her option, after receiving appropriate assessment and counseling, to be placed in the sequence of coursework which affords him or her the best opportunity to meet his or her career and educational goals, without

undue emphasis of any particular goal.

(c) School districts participating in the pilot project shall do all of the following:

(1) Review the inventory of skills of courses in applied academic areas, which are comparable to the approved state model curriculum standards and frameworks, which may satisfy in part, or be substituted for, the requirements for high school graduation in science, mathematics, art, social science, economics, and English.

(2) Identify the courses in applied academic areas which are of sufficient rigor and duration, and which include an adequate core of skills which satisfy in whole or in part the requirements for high school graduation prescribed in subdivision (a) of Section 51225.3.

(3) Review, in consultation with the Superintendent of Public Instruction, the current methods of planning, delivering, and evaluating courses in applied academic areas and programs in high schools and regional occupational centers and programs.

(d) As used in this section, "applied academic areas" means the subject matter areas of agriculture, business and office education, marketing, consumer and homemaking education, health careers, home economic related occupations, industrial arts, technical, trade, and industrial education and methodologies, including, but not limited to, work experience education, cooperative vocational education, and community classrooms.

(e) As used in this section, "applied academic programs" means programs that teach and reinforce academic, technical, and employability skills, necessary for employment or advanced training, in applied academic areas.

52982. School districts that elect to participate in the pilot project and that are selected by the department to participate in the pilot project shall receive a grant in an amount not to exceed thirty thousand dollars ($30,000) for the purposes of administering the pilot project. The State Department of Education shall award grants not to exceed thirty thousand dollars ($30,000) to two large school districts, grants not to exceed twenty-five thousand dollars ($25,000) to two medium school districts, and grants not to exceed twenty thousand dollars ($20,000) to two small school districts.

The department shall determine the criteria to be utilized in defining large, medium, and small school districts for the purposes of this chapter.

52983. Each participating school district shall submit a report to the State Department of Education no later than November 30, 1993, on the progress made in achieving the program objectives set forth in Section 52981.

SEC. 5. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the State Department of Education for the purpose of funding pilot projects in applied academic areas and programs pursuant to Chapter 14 (commencing with Section 52980) of Part 28 of the Education Code.

CHAPTER 520

An act to amend Section 2866 of the Business and Professions Code, relating to licensed vocational nurses.

[Approved by Governor August 13, 1990 Filed with Secretary of State August 13, 1990.]

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

SECTION 1. Section 2866 of the Business and Professions Code is amended to read:

2866. An applicant for a licensed vocational nurse license shall comply with each of the following:

(a) Be at least 17 years of age.

(b) Have successfully completed at least an approved course of study through the 12th grade or the equivalent thereof as specified by the board.

(c) Have successfully completed the prescribed course of study in an accredited school of vocational nursing or have graduated from a school which, in the opinion of the board, maintains and gives a course which is equivalent to the minimum requirements for an accredited school of vocational nursing in this state.

(d) Not be subject to denial of licensure under Section 480.

CHAPTER 521

An act relating to youth, and making an appropriation therefor.

[Approved by Governor August 13, 1990. Filed with Secretary of State August 13, 1990.]

I am deleting the appropriation $135,000 contained in Section 4 of Assembly Bill No. 481.

This bill would appropriate $135,000 from the Driver Training Penalty Assessment Fund to the City of Richmond Police Athletic League (PAL) for a two-year pilot program directed toward youth crime prevention.

The reserve in the Driver Training Penalty Assessment Fund has always accrued to the Geneal Fund. Thus, this bill would cause a reduction in the General Fund Reserve.

It is more appropriate to consider funding the provisions of this bill during the budget process for Fiscal Year 1991–92. Only at that time can we 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 481

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. There is hereby established a two-year pilot program for youth crime prevention to be conducted by the City of Richmond Police Activities League. The program shall end on

December 31, 1992.

The pilot program shall do all of the following:

(a) Provide assistance in increasing the awareness of the incidence of youth crime prevention by interaction between police and youth.

(b) Provide training for school personnel and community leaders in the strategies of youth crime prevention.

(c) Coordinate their activities with and cooperate with, the youth crime prevention efforts of other police activities leagues throughout the state.

(d) Cooperate with other organizations and with local, state, and federal governmental agencies in youth crime prevention.

SEC. 2. (a) The pilot program shall be deemed successful to the extent that the Richmond Police Activities League has achieved all of the following objectives:

(1) The youth participation in the program has increased by at least 15 percent.

(2) At least 30 percent of the participating youth have no additional police contact during the period of the program.

(3) The Richmond Police Activities League has increased the frequency of training for school personnel and community leaders by 25 percent.

(4) The Richmond Police Activities League has increased in the frequency of contact with other police activities leagues throughout the state by 10 percent.

(5) The Richmond Police Activities League has increased the frequency of cooperation with local, state, or federal governmental agencies in youth crime prevention by 5 percent.

(b) Funding for the second year of the pilot project will be dependent upon review of the pilot project by the Department of the Youth Authority to determine whether the pilot project is deemed successful according to the objectives set forth in subdivision (a). The Department of the Youth Authority shall submit its findings to the Legislature.

SEC. 3. On or before October 1, 1991, the Richmond Police Activities League shall report to the Department of the Youth Authority concerning the effectiveness of the program. On or before December 1, 1991, the Department of the Youth Authority shall submit a separate report to the Legislature concerning the effectiveness of the program. Both reports shall include an appraisal as to whether the program has complied with the purposes set forth in Section 1 of this act.

SEC. 4. The sum of one hundred thirty-five thousand dollars ($135,000) is hereby appropriated from the Driver Training Penalty Assessment Fund to the Controller for allocation to the City of Richmond Police Activities League for the purposes of this act, as follows:

(a) Seventy thousand dollars ($70,000) for the 1991 calendar year.

(b) Sixty-five thousand dollars ($65,000) for the 1992 calendar

year, subject to approval by the Department of the Youth Authority pursuant to subdivision (b) of Section 2 of this act.

CHAPTER 522

An act to add Section 51267 to the Education Code, relating to education.

[Approved by Governor August 13, 1990. Filed with Secretary of State August 14, 1990.]

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

SECTION 1. Section 51267 is added to the Education Code, to read:

51267. The State Department of Education, in consultation with the School/Law Enforcement Partnership and the Office of Criminal Justice Planning, shall develop, or contract for the development of, a comprehensive resource guide to gang violence prevention curricula and programs. This resource guide will be developed as part of an electronic bulletin board system complete with the guide, an index, and instructions on how to access the data, and will include and maintain a statewide gang prevention calendar of events. The guide shall be made available to school districts and county offices of education on or before June 30, 1991.

SEC. 2. This bill will be implemented to the extent that funds are available to the Office of Criminal Justice Planning for this purpose.

CHAPTER 523

An act to amend Section 56345 of the Education Code, relating to education.

[Approved by Governor August 13, 1990 Filed with Secretary of State August 14, 1990]

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

SECTION 1. 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, including the following:

(A) A description of activities provided to integrate the pupil into the regular education program. The description shall indicate the nature of each activity, and the time spent on the activity each day or week.

(B) A description of the activities provided to support the transition of pupils from the special education program into the regular education program.

(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. 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 524

An act to add Section 2889.6 to the Public Utilities Code, relating to public utilities.

[Approved by Governor August 13, 1990 Filed with Secretary of State August 14, 1990]

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

SECTION 1. Section 2889.6 is added to the Public Utilities Code, to read:

2889.6. The commission shall, by rule or order, require all local exchange carriers to do both of the following:

(a) Include in their telephone directory information concerning emergency situations which may affect the telephone network. The information shall include the procedures which the corporation will follow during emergencies, how telephone subscribers can best use the telephone network in an emergency situation, and the emergency services available by dialing "911."

(b) Annually provide to all subscribers in the form of a billing insert, which need not be a separate document, information concerning emergency situations which may affect the telephone network. The information shall include the procedures which the corporation will follow during emergencies, how telephone subscribers can best use the telephone network in an emergency situation, and the emergency services available by dialing "911." The billing insert shall additionally direct the subscriber to consult the telephone directory for similar information concerning the use of the telephone in emergency situations.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 525

An act to amend Sections 42100 and 48645.3 of the Education Code, relating to education.

[Approved by Governor August 13, 1990 Filed with Secretary of State August 14, 1990]

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

SECTION 1. Section 42100 of the Education Code is amended to read:

42100. On or before the 15th day of September of each year the governing board of each school district shall approve, on a form prescribed by the Superintendent of Public Instruction, an annual statement of all receipts and expenditures of the district for the preceding fiscal year and shall file the statement with the county superintendent of schools on or before the 20th day of September. On or before the 20th day of October, the county superintendent of schools shall verify the mathematical accuracy of the statement and shall transmit a copy to the Superintendent of Public Instruction.

SEC. 2. Section 48645.3 of the Education Code is amended to read:

48645.3. Juvenile court schools shall be conducted in a manner as shall be prescribed by the county board of education to best accomplish the provisions of Section 48645. The minimum schoolday shall be 240 minutes. Minimum schooldays shall be calculated on the basis of the average number of minutes of attendance during not more than 10 consecutive days in which classes are conducted. The minimum schoolday for pupils in attendance in approved vocational education programs, work programs prescribed by the probation department pursuant to Section 883 of the Welfare and Institutions Code, and work experience programs shall be 180 minutes, which shall be calculated on the basis of the average number of minutes of attendance during not more than 10 consecutive days in which classes are conducted. The county board of education shall adopt and enforce a course of study and evaluate its program in accordance

with Sections 51040, 51041, 51050, and 51054 and the provisions of Article 3 (commencing with Section 51200) of Chapter 2 of Part 28, except subdivision (c) of Section 51220.

Juvenile court schools shall not be closed on any weekday of the calendar year, except those weekdays adopted by the board of education as school holidays or set aside by the board of education for inservice purposes. However, the board of education may close juvenile court schools when it deems such closing is necessary to accommodate contingencies.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 526

An act to add Section 44276.5 to the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor August 13, 1990. Filed with Secretary of State August 14, 1990]

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

SECTION 1. The Legislature finds that the violent behavior of some students continues to be a major problem confronting school personnel.

The Legislature also finds that certificated school personnel often are not prepared effectively in their professional programs to cope with potentially violent situations or with violent youth.

SEC. 2. Section 44276.5 is added to the Education Code, to read:

44276.5. The commission shall undertake a series of leadership activities directed toward establishing appropriate standards of preparation for teachers and other certificated personnel concerning violent behavior by students. These activities may include an examination of existing preparation programs, the creation of an advisory panel of experts on issues of youth gangs and violence, a conference or symposium on these issues, and the dissemination of teacher preparation models for optional use in teacher preparation programs. The commission shall report on its activities to the

Legislature by January 1, 1992.

SEC. 3. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the Teacher Credentials Fund to the Commission on Teacher Credentialing for the purpose of Section 44276.5 of the Education Code.

CHAPTER 527

An act to amend Sections 26298.2, 26299.041, and 53721.6 of the Government Code, relating to local taxation.

[Approved by Governor August 13, 1990 Filed with Secretary of State August 14, 1990]

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

SECTION 1. (a) It has been the policy of the Legislature that newly created local agencies and commissions constitutionally may be granted the authority to impose local taxes with the approval of a simple majority of the electors voting on the measure. Therefore, the amendment of Sections 26298.2 and 26299.041 of the Government Code by this act is not intended to in any manner affect any pending court decisions as to whether newly created local agencies or commissions constitutionally may be granted the authority to impose local taxes with the approval of a simple majority of the electors voting on the measure.

(b) It is the intent of the Legislature in enacting this act, in view of pending court decisions as to whether newly created local agencies or commissions may impose local taxes with the approval of only a simple majority of the electors voting on the measure, to provide newly created local agencies or commissions with the option to require the adoption of local taxes with the approval of either a simple majority or two-thirds of the electors voting on the measure, as deemed by the agency or commission to be in its best interests.

SEC. 2. Section 26298.2 of the Government Code is amended to read:

26298.2. (a) A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the commission in accordance with Section 26298.8 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the ordinance is adopted by a two-thirds vote of the commission and if a majority of the electors voting on the measure vote to approve its imposition at an election. This election may be a special election called for that purpose by the commission or, if the commission so determines, shall be consolidated with a regular election.

(b) In addition to the authorization of subdivision (a), a retail transactions and use tax ordinance applicable in the incorporated

and unincorporated territory of the county may be adopted by the commission in accordance with the requirements of subdivision (a), except that, at the option of the commission, the ordinance may be required to be approved by two-thirds of the electors voting on the measure.

SEC. 3. Section 26299.041 of the Government Code is amended to read:

26299.041. (a) A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the agency in accordance with this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the tax ordinance is adopted by a two-thirds vote of the agency and imposition of the tax is subsequently approved by a majority of the electors voting on the measure at a special election called for that purpose by the board of supervisors, at the request of the agency, and a county regional justice facilities master plan is adopted pursuant to Section 26299.009.

(b) In addition to the authorization of subdivision (a), a retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the agency in accordance with the requirements of subdivision (a), except that, at the option of the agency, the ordinance may be required to be approved by two-thirds of the electors voting on the measure.

(c) A retail transactions and use tax approved by the electors pursuant to this chapter shall remain in effect for not longer than 30 years, or any lesser period of time specified in the tax ordinance. The tax may be continued in effect, or reimposed, by a tax ordinance adopted by a two-thirds vote of the agency and the reimposition of the tax is approved by either a majority or two-thirds of the electors, whichever was required for the initial approval.

(d) The special elections required by subdivisions (a), (b), and (c) for the initial imposition and reimposition, respectively, of a retail transactions and use tax may be consolidated, if the agency so determines, with a regular election.

SEC. 4. Section 53721.6 of the Government Code is amended to read:

53721.6. (a) A retail transactions and use tax imposed by an ordinance adopted pursuant to Chapter 13.7 (commencing with Section 26295) or 13.8 (commencing with Section 26299.000) of Part 2 of Division 2 of Title 3 shall be deemed to be a general tax for the purposes of this article unless the transactions and use tax ordinance, or an amendment thereto, either declares the tax to be a special tax or requires the proceeds of the tax to be placed in a fund other than the general fund of the county regional justice facilities financing agency, or a similar fund, and irrevocably restricts the use of the proceeds to specific purposes of more limited scope and type than the general governmental purposes of the county regional justice facilities financing agency set forth in Section 26298.18 or 26299.031.

(b) The receipt or retention of the proceeds of the transactions and use tax, imposed by an ordinance adopted pursuant to Chapter 13.7 (commencing with Section 26295) or 13.8 (commencing with Section 26299.000) of Part 2 of Division 2 of Title 3 by a bond trustee for bonds secured by the proceeds of the tax shall not cause a general tax to become a special tax.

CHAPTER 528

An act to add Section 8492 to the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Became law without Governor's signature. Filed with Secretary of State August 14, 1990]

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

SECTION 1. The Legislature finds and declares that overfishing of crayfish in the Sacramento-San Joaquin Delta is placing serious pressure on the species.

SEC. 2. Section 8492 is added to the Fish and Game Code, to read:

8492. The department shall take the steps it determines are necessary to prevent overfishing of crayfish in the Sacramento-San Joaquin Delta. Those steps may include, but are not limited to, submitting to the Legislature proposed legislation to place limitations on the commercial crayfishing in that area.

CHAPTER 529

An act to amend, repeal, and add Section 12729 of, and to add and repeal Section 12729.5 of, the Business and Professions Code, relating to weights and measures.

[Approved by Governor August 15, 1990 Filed with Secretary of State August 15, 1990]

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

SECTION 1. Section 12729 of the Business and Professions Code is amended to read:

12729. (a) Except as otherwise provided in this section, any person who violates any provision of this chapter is guilty of a misdemeanor.

(b) Violations of Sections 12714, 12714.5, and 12715 are infractions, except as otherwise provided in Section 12718. Every person convicted of an infraction pursuant to this subdivision shall be punished as follows:

(1) For the first conviction, a fine not exceeding one hundred dollars ($100).

(2) For a second conviction within a period of one year, a fine not exceeding two hundred dollars ($200).

(3) For a third or subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500).

(c) A violation of Section 12722 by a vehicle hauling bulk tomatoes is an infraction. Every person convicted of an infraction pursuant to this subdivision shall be punished as follows:

(1) For a vehicle that exceeds the tolerance provided by regulations adopted pursuant to Section 12723 by less than 50 percent, a fine not exceeding two hundred dollars ($200).

(2) For a vehicle that exceeds the tolerance provided by regulations adopted pursuant to Section 12723 by 50 to 100 percent, inclusive, a fine not exceeding four hundred dollars ($400).

(3) For a vehicle that exceeds the tolerance provided by regulations adopted pursuant to Section 12723 by more than 100 percent, a fine not exceeding eight hundred dollars ($800).

This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 2. Section 12729 is added to the Business and Professions Code, to read:

12729. (a) Except as otherwise provided in this section, any person who violates any provision of this chapter is guilty of a misdemeanor.

(b) A violation of Section 12722 by vehicles hauling bulk tomatoes that does not exceed 50 percent of the tolerance provided by regulations adopted pursuant to Section 12723, or a violation of Section 12714, 12714.5, or 12715 is an infraction.

(c) Every person convicted of an infraction pursuant to this chapter shall be punished as follows:

(1) For the first conviction, a fine not exceeding one hundred dollars ($100).

(2) For a second conviction within a period of one year, a fine not exceeding two hundred dollars ($200).

(3) For a third or subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500).

(d) This section shall become operative on January 1, 1995.

SEC. 3. Section 12729.5 is added to the Business and Professions Code, to read:

12729.5. (a) In order to determine the impact of changing the schedule of fines for a violation of Section 12722 by a vehicle hauling bulk tomatoes, the department shall compile information on, and prepare a statistical comparison of, violations of Section 12722 by vehicles hauling bulk tomatoes for (1) 18 months prior to January 1, 1991, and (2) 18 months after January 1, 1991. The department shall provide this information and comparison to the Legislature not later than January 1, 1993.

(b) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

CHAPTER 530

An act to amend Sections 10235.12 and 10235.16 of, and to add Article 5 (commencing with Section 10237) to Chapter 2.6 of Part 2 of Division 2 of, the Insurance Code, relating to long-term care insurance.

[Approved by Governor August 15, 1990 Filed with Secretary of State August 15, 1990]

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

SECTION 1. Section 10235.12 of the Insurance Code is amended to read:

10235.12. (a) As used in this section:

(1) "Basis for continuation of coverage" means a policy provision which maintains coverage under the existing group policy when that coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due.

(2) "Basis for conversion of coverage" means a policy provision to the effect that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced), for at least six months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability.

(3) "Converted policy" means an individual policy of long-term care insurance providing benefits identical to, or benefits determined by the commissioner to be substantially equivalent to or in excess of, those provided under the group policy from which conversion is made.

If the group policy from which conversion is made restricts the provision of benefits and services to, or contains incentives to use certain providers or facilities, the commissioner, in making the determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and nonmanaged care plans, including, but not limited to, provider system arrangements, service availability, benefit levels, and administrative complexity.

(4) A "managed care plan" means any health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management, or the use of

specific provider networks.

(b) Group long-term care insurance policies delivered or issued for delivery in this state on or after January 1, 1990, shall provide covered individuals with a basis for continuation of coverage or a basis for conversion of coverage.

(c) Group policies which restrict provision of benefits and services to, or which provide incentives to use, certain providers or facilities may include continuation benefits which are substantially equivalent to the benefits of the existing group policy. The commissioner shall make a determination as to the substantial equivalency of benefits for this purpose and, in doing so, shall take into consideration the differences between managed care plans and nonmanaged plans, including, but not limited to, provider system arrangements, service availability, benefit levels, and administrative complexity.

(d) Written application for a converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than 31 days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be renewable annually.

(e) Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the previous group policy replaced.

(f) Continuation of coverage or issuance of a converted policy shall be mandatory, unless either of the following apply:

(1) Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due.

(2) The terminating coverage is replaced not later than 31 days after termination by group coverage effective on the day following the termination of coverage and the replacement coverage meets both of the following criteria:

(A) The replacement coverage provides benefits identical to, or benefits determined by the commissioner to be substantially equivalent to or in excess of, those provided by the terminating coverage.

(B) The premium for the replacement coverage is calculated in a manner consistent with the requirements of subdivision (e).

(g) Notwithstanding any other provision of this section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy which provides benefits on the basis of incurred expenses, may contain a provision which results in a reduction of benefits payable

if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100 percent of incurred expenses. This provision shall only be included in a converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

(h) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.

(i) Notwithstanding any other provision of this section, any insured individual whose eligibility for group long-term care coverage is based upon his or her relationship to another person, shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

(j) Continuation, conversion, or replacement coverage shall not contain preexisting condition exclusions if, as of the effective date of continuation, conversion, or replacement, the group coverage from which continuation, conversion, or replacement is made would provide benefits for preexisting conditions.

(k) If the group coverage from which continuation, conversion, or replacement is made, imposes preexisting condition limitation periods, elimination, waiting or other time periods as preconditions to benefits, and any of these preconditions have been partially satisfied as of the effective date of continuation, conversion, or replacement, the period of that partial satisfaction shall be applied as a credit towards satisfaction of those preconditions to benefits contained in the continuation, conversion, or replacement coverage.

(*l*) This section shall prevail as to any conflict between its provisions and Part 6.1 (commencing with Section 12670) of Division 2 of the Insurance Code.

SEC. 2. Section 10235.16 of the Insurance Code is amended to read:

10235.16. (a) Long-term care insurance application forms shall include a question designed to elicit information as to whether the proposed insurance is intended to replace any other accident and sickness or long-term care insurance presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used.

(b) Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its agent shall furnish the applicant, prior to issuance or delivery of a policy or certificate, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of this notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following form:

"NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with long-term care insurance coverage to be issued by (company name) Insurance Company. Your new coverage provides thirty (30) days within which you may decide, without cost, whether you desire to keep the coverage. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new coverage.

(1) Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new coverage. This could result in denial or delay in payment of benefits under the new coverage, whereas a similar claim might have been payable under your present coverage.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present coverage. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) If, after due consideration, you still wish to terminate your present coverage and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your coverage had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all the information has been properly recorded.

The above 'Notice to Applicant' was delivered to me on:

_____

(Date)

_____

(Applicant's Signature)"

(c) For group coverage not subject to the 30-day return provision of Section 10232.7, the notice shall be modified to reflect the appropriate time period in which the policy may be returned and premium refunded.

SEC. 3. Article 5 (commencing with Section 10237) is added to Chapter 2.6 of Part 2 of Division 2 of the Insurance Code, to read:

Article 5. Inflation Escalator and Benefit Increases

10237. This article applies to all long-term care insurance policies delivered or issued for delivery in this state on or after January 1, 1991.

10237.1. No insurer may deliver or issue for delivery a long-term care insurance policy in this state unless the insurer offers to the policyholder the option to purchase a long-term care insurance policy that provides for benefit levels to increase to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers shall offer to each policyholder, at the time of purchase, the option to purchase a long-term care insurance policy containing an inflation protection feature which is no less favorable than one that does one or more of the following:

(a) Increases benefit levels annually.

(b) Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined.

(c) Covers a specified percentage of actual or reasonable charges.

10237.2. If the policy is issued to a group, the required offering in Section 10237.1 shall be made to the group policyholder; except that if the policy is issued to a group as defined in subdivision (d) of Section 10231.6, other than to a continuing care retirement community, the offering shall be made to each proposed certificate holder.

10237.3. The offer in Section 10237.1 shall not be required of any of the following:

(a) Life insurance policies or riders containing accelerated long-term care benefits.

(b) Expense incurred long-term care insurance policies. For purposes of this subdivision, "expense incurred" does not include policies paying a certain percentage of reasonable and customary charges up to a specified, indemnity-type maximum amount.

CHAPTER 531

An act to amend Section 25385.8 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor August 15, 1990. Filed with Secretary of State August 15, 1990.]

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

SECTION 1. Section 25385.8 of the Health and Safety Code is amended to read:

25385.8. (a) The Superfund Bond Trust Fund is hereby created in the State Treasury. All interest earned on funds in the state account, and other funds transferred to the trust fund by the Legislature or the department, shall be deposited in the trust fund, which is a sinking fund to ensure the payment of principal of, and interest on, the debt incurred pursuant to Section 25385.5. All interest earned on money in the fund shall be deposited in the trust fund. The funds in the trust fund shall be invested by the Treasurer. The committee shall administer the trust fund so that there are sufficient funds in the trust fund to make the necessary principal and interest payments on bonds issued and shall transfer funds from the trust fund for this purpose to the Hazardous Substance Clearing Account.

(b) There shall be transferred annually the sum of five million dollars ($5,000,000) from the state account to the trust fund.

(c) The unobligated balance in the state account shall be transferred by the department to the trust fund on December 31 of each year. For purposes of this section, "unobligated balance" means that amount, which shall not be less than zero, determined by the department, in the year-end financial statement submitted to the Controller, to be the total of all unencumbered funds on June 30 of that calendar year, less the total of all of the following:

(1) Any fund in the reserve account for emergencies established by Section 25354.

(2) Any remaining principal of the loan authorized by Section 25332.

(3) Any interest due on any remaining principal of the loan authorized by Section 25332.

(4) Any funds paid as taxes for the following fiscal year.

(5) Any funds received from the federal government pursuant to the federal act.

(6) Any funds in the state account subject to the rebate specified in Section 25347.2.

(7) Any interest accruing from funds deposited in the subaccount for site operation and maintenance established by Section 25330.5.

(8) Any funds received from responsible parties for remedial and removal action, except to the extent those funds are necessary to reimburse the state account for funds previously expended therefrom.

(9) Any funds deposited into a sinking fund to ensure the repayment of principal on, and interest of, bonds pursuant to Section 25385.9.

(d) The amendment of this section made at the 1990 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

CHAPTER 532

An act to amend Sections 25356.1, 25356.3, and 25356.5 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor August 15, 1990. Filed with Secretary of State August 15, 1990]

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

SECTION 1. Section 25356.1 of the Health and Safety Code is amended to read:

25356.1. (a) Except as provided in subdivision (g), the department, or, if appropriate, the regional water quality control board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.

(b) A potentially responsible party may request the department or the regional water quality control board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356 if the department or the State Water Resources Control Board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the state board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional water quality control board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(c) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. 300.61 et seq.), and any amendments thereto, and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional water quality control board shall consider scientific data and reports which may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses. The department or regional water quality control board shall consider the extent to which remedial action measures are available which use, as a principal element, treatment that significantly reduces the volume, toxicity, or mobility of the hazardous substances, as opposed to remedial actions which do

not use this treatment. The department or regional water quality control board shall not select remedial action measures which use offsite transport and disposal of untreated hazardous substances or contaminated materials if practical and cost-effective treatment technologies are available.

(4) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost effectiveness of alternative remedial action measures. In evaluating the cost effectiveness of proposed alternative remedial action measures, the department or regional water quality control board shall consider, to the extent possible, the total short-term and long-term costs of these actions and shall use, as a major factor, whether the deferral of a remedial action will result, or is likely to result, in a rapid increase in cost or in the hazard to public health or the environment posed by the site. Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.

(6) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated hazardous substances as opposed to treatment of the hazardous substances to remove or reduce its volume, toxicity, or mobility prior to disposal.

(d) A remedial action plan prepared or approved pursuant to this section shall include a statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted to, or prepared by, the department or the regional water quality control board for a particular site. The statement shall also include an evaluation of the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (c) and shall set forth the reasons for rejection of alternative removal and remedial actions. The statement shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional water quality control board shall prepare or approve a draft remedial action plan and shall do all of the following:

(1) Circulate the draft plan for at least 30 days for public comment.

(2) Notify affected local and state agencies of the removal and remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial action plan. The department or the regional water quality control board shall also post notices in the location where the

proposed removal or remedial action would be located and shall notify, by direct mailing, the owners of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.

(3) Hold one or more meetings with the lead and responsible agencies for the removal and remedial actions, the potentially responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information which is necessary to address the issues which concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial actions, and a description of the proposed removal and remedial actions.

(4) Comply with Section 25358.7.

(e) After complying with subdivision (d), the department or the regional water quality control board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional water quality control board shall then issue the final remedial action plan.

(f) A potentially responsible party named in the final remedial action plan issued by the department or the regional water quality control board may seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final remedial action plan is issued by the department or the regional water quality control board. Any other person who has the right to seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure shall do so within one year after the final remedial action plan is issued. No action may be brought by a potentially responsible party to review the final remedial action plan if the petition for writ of mandate is not filed within 30 days of the date the final remedial action plan was issued. No action may be brought by any other person to review the final remedial action plan if the petition for writ of mandate is not filed within one year of the date the final remedial action plan is issued. The filing of a petition for writ of mandate to review the final remedial action plan shall not stay any removal or remedial action specified in the final plan.

For purposes of judicial review, the court shall uphold the final remedial action plan if the plan is based upon substantial evidence available to the department or the regional water quality control board, as the case may be. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction, including, but not limited to, enjoining the expenditure of funds pursuant to paragraph (2) of subdivision (b) of Section 25385.6.

(g) (1) This section does not require the department or a regional water quality control board to prepare a remedial action plan if conditions present at a site present an imminent or substantial

endangerment to the public health and safety or to the environment.

(2) A remedial action plan is not required pursuant to subdivision (a) if all of the following apply:

(A) The department, a regional water quality control board, or a responsible party takes a removal action at a site listed pursuant to Section 25356 to prevent, minimize, or mitigate damage that may otherwise result from a release or threatened release of a hazardous substance.

(B) The total cost of the removal action is less than four hundred thousand dollars ($400,000).

(C) The department, after appropriate testing and analysis, determines that the removal action has adequately abated conditions at the site and the site may be removed from the list established pursuant to Section 25356.

(3) The department may waive the requirement that a remedial action plan meet the requirements specified in subdivision (c) if all of the following apply:

(A) The responsible party adequately characterizes the hazardous substance conditions at a site listed pursuant to Section 25356.

(B) The responsible party submits to the department, in a form acceptable to the department, all of the following:

(i) A description of the techniques and methods to be employed in excavating, storing, handling, transporting, treating, and disposing of materials from the site.

(ii) A listing of the alternative remedial measures which were considered by the responsible party in selecting the proposed removal action.

(iii) A description of methods that will be employed during the removal action to ensure the health and safety of workers and the public during the removal action.

(iv) A description of prior removal actions with similar hazardous substances and with similar public safety and environmental considerations.

(C) The department determines that the remedial action plan provides protection of human health and the environment at least equivalent to that which would be provided by a remedial action plan prepared in accordance with subdivision (c).

(D) The total cost of the removal action is less than two million dollars ($2,000,000).

(4) For purposes of this section, the cost of a removal action includes the cleanup of removal of released hazardous substances from the environment or the taking of other actions which are necessary to prevent, minimize, or mitigate damage which may otherwise result from a release or threatened release, as further defined by Section 9601 (23) of Title 42 of the United States Code.

(5) Paragraphs (2) and (3) of this subdivision do not apply to a removal action paid from the Hazardous Substance Cleanup Fund.

(h) Article 2 (commencing with Section 13320), Article 3

(commencing with Section 13330), Article 5 (commencing with Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to any action or failure to act by a regional water quality control board pursuant to this section.

SEC. 2. Section 25356.3 of the Health and Safety Code is amended to read:

25356.3. (a) The department or the regional water quality control board shall serve a copy by mail of the draft remedial action plan upon all potentially responsible parties identified in the plan. Within 15 days after the issuance of a final remedial action plan, any potentially responsible parties with aggregate alleged liability in excess of 50 percent of the costs of removal and remedial action, as set forth in the statement of reasons issued pursuant to subdivision (d) of Section 25356.1, but excluding any costs which are the subject of an agreement under which any party agrees to assume liability for those costs, may convene an arbitration proceeding by agreeing to submit to binding arbitration by the panel. The filing of a demand to convene an arbitration panel shall not stay any removal or remedial actions specified in the plan. If an arbitration panel is convened pursuant to this section, any other potentially responsible party may elect to submit to binding arbitration by the panel. Any person submitting to arbitration under this section shall agree not to contest the fact of liability in the arbitration. The panel shall, and the parties are entitled to, address the proper apportionment of liability pursuant to subdivision (b). Submission to arbitration under this section is not an admission of liability for any other purpose or in any other proceeding, including a subsequent arbitration proceeding concerning the same site. The department or the regional water quality control board, whichever issued the final remedial action plan, shall participate in the arbitration proceedings to the same extent as the potentially responsible parties which have submitted to the arbitration.

(b) The panel shall apportion liability for the costs of all removal and remedial actions specified in the final remedial action plan.

(c) In panel proceedings, liability for the costs of removal and remedial actions shall be apportioned among all identifiable potentially responsible parties regardless of whether those parties are before the panel or have otherwise been released, or are immune, from liability pursuant to this chapter or any other provision of law. The panel shall apportion liability based on all of the following criteria:

(1) The amount of hazardous substance for which each party may be responsible.

(2) The degree of toxicity of the hazardous substance.

(3) The degree of involvement of the potentially responsible parties in the generation, transportation, treatment, or disposal of the hazardous substance.

(4) The degree of care exercised by the potentially responsible

parties with respect to the hazardous substances, taking into account the characteristics of the substance.

(5) The degree of cooperation by the potentially responsible parties with federal, state, and local officials to prevent harm to human health and the environment.

(d) The panel may issue subpoenas and subpoenas duces tecum to require attendance of a person or the production of documents, at the request of any person identified as potentially responsible in the remedial action plan, on its own motion, or at the request of the department or the appropriate regional water quality control board. A person requesting a subpoena duces tecum shall comply with Section 1985 of the Code of Civil Procedure. The jurisdiction of subpoenas and subpoenas duces tecum issued by the panel extends to all parts of the state. The subpoenas and subpoenas duces tecum shall be served pursuant to Sections 1987 and 1988 of the Code of Civil Procedure.

If the panel determines that a person is refusing to respond to a subpoena or subpoena duces tecum, or is guilty of a misconduct during the arbitration and negotiation process, the panel shall certify the facts to the superior court of the county in which the site is located. The court shall thereupon issue an order directing the person to appear before the court and show cause why the person should not be punished for contempt pursuant to Section 1209 of the Code of Civil Procedure. The order and a copy of the certified statement shall be served on the person, and thereafter the court shall have jurisdiction of the matter. The same proceedings shall be followed, the same penalties may be imposed, and the person charged may be purged of contempt in the same way as if the person has committed a contempt in the trial of a civil action before a superior court.

After receipt of documents pursuant to a subpoena duces tecum, any party may request the panel for a continuance for a reasonable period of time to review the documents prior to proceeding with the arbitration. The panel may grant a continuance for that purpose upon a showing of good cause.

(e) This chapter does not require a regional water quality control board or the State Water Resources Control Board to engage in arbitration pursuant to this section or Section 25356.2 for any enforcement action taken pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(f) The costs of conducting the arbitration shall be borne by the potentially responsible parties submitting to the arbitration pursuant to subdivision (a), except that any filing fees, witness fees, costs of discovery, or any other costs necessarily incurred by one party shall not be shared by any other party.

SEC. 3. Section 25356.5 of the Health and Safety Code is amended to read:

25356.5. On or before January 10 of each fiscal year, the department shall provide a report to the Legislature which contains

all of the following information:

(a) The actual funds expended for each site listed during the preceding year pursuant to Section 25356.

(b) The state's efforts to obtain available federal funds for the purposes of this chapter.

(c) An accounting of federal funds which have been obtained by, or committed to, the state.

(d) The state's efforts to obtain contributions to removal or remedial actions from potentially responsible parties.

CHAPTER 533

An act to amend Section 25143.2 of the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 15, 1990 Filed with Secretary of State August 15, 1990]

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

SECTION 1. Section 25143.2 of the Health and Safety Code is amended to read:

25143.2. (a) Recyclable materials are subject to the requirements of this chapter which apply to hazardous wastes, unless the department issues a variance pursuant to Section 25143, or except as provided otherwise in subdivision (b), (c), or (d) or the regulations adopted by the department pursuant to Sections 25150 and 25151.

(b) Except as otherwise provided in subdivision (e), any recyclable material is not a waste under this chapter when the material can be shown to be recycled by any of the following methods:

(1) Used or reused as an ingredient in an industrial process to make a product, if the material is not being reclaimed.

(2) Used or reused as a safe and effective substitute for commercial products, if the material is not being reclaimed.

(3) Returned to the original process from which the material was generated, without first being reclaimed, if the material is returned as a substitute for raw material feedstock, and the process uses raw materials as principal feedstocks.

(c) Except as otherwise provided in subdivisions (b), (d), and (e), any recyclable material may be recycled at a facility which is not authorized by the department pursuant to the applicable hazardous waste facilities permit requirements of Article 9 (commencing with Section 25200) if either of the following requirements is met:

(1) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which

the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter. A waste subject to this paragraph is exempt from this chapter to the same extent the waste is exempt from subsections (q), (r), and (s) of Section 6924 of Title 42 of the United States Code.

(2) The material meets all of the following conditions:

(A) The material is recycled and used at the same facility at which the material was generated.

(B) The material is recycled within 90 days of its generation.

(C) The material is managed in accordance with all applicable requirements for generators of hazardous wastes under this chapter and regulations adopted by the department.

(d) Except as otherwise provided in subdivision (e), any recyclable material which is a non-RCRA hazardous waste, as defined in Section 25117.9, is not a waste under this chapter if the material meets any of the following requirements:

(1) The material can be shown to be recycled and used at the site where the material was generated.

(2) The material qualifies as one or more of the following:

(A) The material is a product, which has been processed from a hazardous waste, or which has been handled, at a facility authorized by the department pursuant to the facility permit requirements of Article 9 (commencing with Section 25200) to process or handle the material, if the product meets both of the following conditions:

(i) The product contains no hazardous constituents, other than those for which the material is being recycled.

(ii) The product is used, or distributed or sold for use, in a manner for which the product is commonly used.

(B) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter.

(C) The material is oily waste, used oil, or spent nonhalogenated solvent which is managed by the owner or operator of a refinery which is processing primarily crude oil and which is not subject to permit requirements for recycling of used oil, or a public utility, or a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent of the refinery or public utility, and which meets all of the following requirements:

(i) The material is either burned in an industrial boiler, an industrial furnace, an incinerator, or a utility boiler which complies with all applicable federal and state laws, or is recombined with normal process streams to produce a fuel.

(ii) The material is either managed at the site where it was generated or managed at another site owned or operated by the generator, a corporate subsidiary of the generator, a subsidiary of the same entity of which the generator is a subsidiary, or the corporate parent of the generator.

(iii) The material contains no hazardous constituents other than

those for which the material is being recycled.

(3) The material is transported between locations operated by the same person, if the material is recycled at the last location and is not handled at any interim location not operated by the person. If requested by the department or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(4) The material is transferred between locations operated by the same person, if the material is to be recycled at an authorized offsite hazardous waste facility and if all of the following conditions are met:

(A) The material is transferred by employees of the person in vehicles under the control of the person or by a registered hazardous waste hauler under contract to the person.

(B) The material is not handled at any interim location not operated by the person.

(C) The material is not held at any publicly accessible interim location for more than four hours.

(D) The material is managed in compliance with the requirements of this chapter and the regulations adopted pursuant to this chapter prior to the initial transportation of the material and after the receipt of the material at the last location operated by the person. Upon receipt of the material at the last location operated by the person, the material shall be deemed to have been generated at that location.

(E) If requested by the department, or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(5) The material is both transported and used or reused, as an ingredient in an industrial process to make a product, if the material is not treated before that use or reuse.

(6) The material is a container which meets all of the following requirements:

(A) The container was last used to hold a hazardous material acquired from a supplier of hazardous materials.

(B) The container is empty pursuant to the standards set forth in Section 261.7 of Title 40 of the Code of Federal Regulations.

(C) The container is returned to a supplier of hazardous materials for the purpose of being refilled.

(D) The container is not treated prior to being returned to the supplier of hazardous materials.

(E) The container is not treated by the supplier of hazardous materials except by rinsing.

(F) The container is refilled by the supplier with hazardous material which is compatible with the hazardous material which the container previously held.

(G) The container is handled in accordance with any regulations adopted by the department to implement this paragraph.

(e) Notwithstanding subdivisions (b), (c), and (d), all of the following recyclable materials are hazardous wastes and subject to full regulation under this chapter, even if the recycling involves use, reuse, or return to the original process as described in subdivision (b), or even if the recycling involves activities or materials described in subdivisions (c) and (d):

(1) Materials which are a RCRA hazardous waste, as defined in Section 25120.2, used in a manner constituting disposal, or used to produce products that are applied to the land including, but not limited to, materials used to produce a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance. The department may adopt regulations to exclude materials from regulation pursuant to this paragraph.

(2) Materials which are a non-RCRA hazardous waste, as defined in Section 25117.9, and used in a manner constituting disposal or used to produce products that are applied to the land as a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance. The department may adopt regulations to exclude materials from regulation pursuant to this paragraph.

(3) Materials burned for energy recovery, used to produce a fuel, or contained in fuels, except materials exempted under paragraph (1) of subdivision (c) or subparagraph (B) or (C) of paragraph (2) of subdivision (d).

(4) Materials accumulated speculatively.

(5) Materials determined to be inherently wastelike pursuant to regulations adopted by the department.

(6) Used or spent etchants, stripping solutions, and plating solutions, which are transported to an offsite facility operated by a person other than the generator and which conform to either of the following:

(A) Meet a characteristic or a criterion of a hazardous waste established by the Environmental Protection Agency or the department.

(B) Are listed by the Environmental Protection Agency or the department as a hazardous waste.

(7) Used oil, as defined in subdivision (a) of Section 25250.1, unless one of the following applies:

(A) The used oil meets the definition of recycled oil contained in subdivision (c) of Section 25250.1.

(B) The used oil is exempted under subparagraph (B) or (C) of paragraph (2) of subdivision (d) or under paragraph (4) of subdivision (d) of this section, under subdivision (e) of Section 25250.1, or under Section 25250.3.

(C) The used oil is used or reused on the site where it was generated or is exempt under paragraph (3) of subdivision (d) and, in either situation, is not any of the following:

(i) Used in a manner constituting disposal or used to produce a product that is applied to land.

(ii) Burned for energy recovery or used to produce a fuel, unless

the used oil is exempted under subparagraph (B) or (C) of paragraph (2) of subdivision (d).

(iii) Accumulated speculatively.

(iv) Determined to be inherently wastelike pursuant to regulations adopted by the department.

(f) If the department brings an action to enforce this chapter, any person subject to the action who claims that a certain recyclable material is not a waste or is excluded, exempt, or conditionally exempt, from regulation under this chapter, shall demonstrate to the department that there is a known market or disposition for the material, and that the requirements of any exemption, exclusion, or conditional exemption from this chapter are met, by providing appropriate documentation to demonstrate that the material is not a waste or is excluded, exempt, or conditionally exempt, from regulation. Any person subject to an enforcement action and making this claim shall provide to the department, upon request, the name, street and mailing address, and telephone number of the owner or operator of any facility that manages the material, and any other information related to the management of the material requested by the department. Any owner or operator of a facility subject to an action to enforce this chapter who claims to be recycling materials shall show that the facility has the necessary equipment to recycle the material.

SEC. 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California 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 to carry out the state's hazardous waste control program in order to protect public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 534

An act to amend Section 44259 of the Education Code, relating to schools.

[Approved by Governor August 15, 1990 Filed with Secretary of State August 15, 1990]

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

SECTION 1. Section 44259 of the Education Code is amended to read:

44259. (a) The minimum requirements for the teaching credential, except designated subjects, are:

(1) A baccalaureate degree or higher degree, except in professional education, from an approved institution.

(2) A fifth year of study to be completed within five years from the date of issuance of the preliminary credential.

(3) An approved program of professional preparation.

(4) Passage of a subject matter examination or its waiver as specified in this chapter.

(5) Demonstration of a knowledge of the various methods of teaching reading, to a level deemed adequate by the commission, by successful completion of a program of study approved by the commission or passage of a commission-approved reading examination.

(b) Notwithstanding subdivision (a), persons who are performing teaching services as of January 1, 1991, pursuant to the version of this section in effect prior to that date may continue to perform those services without complying with any additional requirements.

CHAPTER 535

An act to add Section 974 to the Military and Veterans Code, relating to veterans.

[Approved by Governor August 15, 1990. Filed with Secretary of State August 15, 1990]

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

SECTION 1. Section 974 is added to the Military and Veterans Code, to read:

974. (a) The Department of Veterans Affairs shall annually prepare a report of the activities of county veteran service officers, and may require each county veteran service officer to submit information required to prepare the report. The report shall include, but not be limited to, all of the following:

(1) The number of monthly federal benefit payments obtained on behalf of veterans.

(2) The total value of those monthly benefit payments.

(3) The average value of those monthly benefit payments.

(4) The number of one-time benefit payments obtained, including both single-payment benefits and retroactive payments.

(5) The total value of one-time benefit payments obtained.

(6) The average value of these one-time benefit payments obtained.

(b) The information required to be included in paragraphs (1) to (6), inclusive, of subdivision (a) shall be set forth for each county together with a statewide total.

(c) The department shall transmit a copy of the report to the Department of Finance, the State Department of Health Services, the California Veterans Board, and to each Member of the Legislature.

SEC. 2. The Department of Veterans Affairs shall, on or before July 1, 1991, adopt regulations governing its administration of subvention and reimbursement programs for county veteran service officers.

CHAPTER 536

An act to add Article 7.5 (commencing with Section 8599) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to emergency services and making an appropriation therefor.

[Approved by Governor August 15, 1990 Filed with Secretary of State August 15, 1990]

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

SECTION 1. Article 7.5 (commencing with Section 8599) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 7.5. Statewide Natural Disaster Volunteer Corps Program

8599. The Office of Emergency Services shall develop a plan for state and local governmental agencies to utilize volunteer resources during a state of emergency proclaimed by the Governor. The office shall consult with appropriate state and local governmental agencies and volunteer organizations in the development of this plan.

8599.1. The Office of Emergency Services shall provide the Assembly Committee on Earthquake Preparedness and Natural Disasters and the Senate Committee on Toxics and Public Safety Management with a status report on the development of the plan required by Section 8599 on or before July 15, 1991, and a final report

with recommendations on what is required to implement the plan on or before October 31, 1991.

8599.2. The plan required by Section 8599 shall address, at a minimum, all of the following issues:

(a) A formal system for the utilization of volunteer resources by state and local governmental agencies during a proclaimed state of emergency.

(b) A definition of volunteer resources.

(c) The identification and listing of volunteer resources in California.

(d) An education program for volunteer resources on the needs and use of volunteers by state and local governmental agencies during a proclaimed state of emergency.

(e) An education program for state and local governmental agencies on the availability and utilization of volunteer resources during a proclaimed state of emergency.

(f) The coordination of volunteer resources during a proclaimed state of emergency.

(g) Definition and identification of volunteer skills and resources typically required by state and local governmental agencies during a proclaimed state of emergency.

(h) A volunteer resources emergency management system for responding to needs of state and local governmental agencies during a proclaimed state of emergency.

(i) A notification procedure of volunteer resources for participation in the plan.

(j) Communication needs of volunteer resources responding during a proclaimed state of emergency.

(k) Predisaster agreements for utilization of volunteer resources by state and local governments during a proclaimed state of emergency.

SEC. 2. There is hereby appropriated the sum of fifteen thousand dollars ($15,000) from the General Fund to the Office of Emergency Services for the purposes of this act.

CHAPTER 537

An act to amend Section 65962.5 of the Government Code, relating to hazardous waste.

[Approved by Governor August 15, 1990. Filed with Secretary of State August 15, 1990]

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

SECTION 1. Section 65962.5 of the Government Code is amended to read:

65962.5. (a) The State Department of Health Services shall

compile and update as appropriate, but at least annually, and shall submit to the Secretary of Environmental Affairs, a list of all of the following:

(1) All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.

(2) All land designated as hazardous waste property or border zone property pursuant to Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.

(3) All information received by the State Department of Health Services pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.

(4) All sites listed pursuant to Section 25356 of the Health and Safety Code.

(5) All sites included in the Abandoned Site Assessment Program.

(6) A list of all public drinking water wells which contain detectable levels of organic contaminants and which are subject to water analysis pursuant to Section 4026.2 or 4026.3 of the Health and Safety Code.

(b) The State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Secretary of Environmental Affairs, a list of all of the following:

(1) All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code.

(2) All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the State Department of Health Services pursuant to subdivision (e) of Section 13273 of the Water Code.

(3) All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, which concern the discharge of wastes which are hazardous materials.

(c) The local enforcement agency, as designated pursuant to Section 18051 of Title 14 of the California Administrative Code, shall compile as appropriate, but at least annually, and shall submit to the California Integrated Waste Management Board, a list of all solid waste disposal facilities from which there is a known migration of hazardous waste. The California Integrated Waste Management Board shall compile the local lists into a statewide list which shall be submitted to the Secretary of Environmental Affairs and shall be available to any person who requests the information.

(d) The Secretary of Environmental Affairs shall consolidate the information submitted pursuant to this section and distribute it in a timely fashion to each city and county in which sites on the lists are located. The secretary shall distribute the information to any other person upon request. The secretary may charge a reasonable fee to persons requesting the information, other than cities, counties, or

cities and counties, to cover the cost of developing, maintaining, and reproducing and distributing the information.

(e) Before a local agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project is located on a site which is included on any of the lists compiled pursuant to this section. If the site is included on a list, the list shall be specified on the statement.

CHAPTER 538

An act to amend Section 21666 of the Business and Professions Code, relating to swap meets.

[Approved by Governor August 15, 1990. Filed with Secretary of State August 15, 1990.]

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

SECTION 1. Section 21666 of the Business and Professions Code is amended to read:

21666. (a) Upon request, a vendor shall provide the purchaser a written receipt disclosing the vendor's name and address for any items purchased which has a selling price in excess of fifteen dollars ($15).

(b) No vendor shall offer or display at a swap meet any new or used personal property or merchandise of a kind which the swap meet operator has expressly prohibited. Every swap meet owner shall post or display in prominent places at the swap meet, or give written notice to every vendor prior to the commencement of a swap meet of the kinds of personal property or merchandise which may be not offered for sale or exchange. The swap meet owner or operator shall also post a sign at the main entrance of the swap meet which states that vendors are required to issue receipts in accordance with subdivision (a).

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 539

An act to amend Section 386 of the Insurance Code, relating to insurance.

[Approved by Governor August 16, 1990 Filed with Secretary of State August 16, 1990]

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

SECTION 1. Section 386 of the Insurance Code is amended to read:

386. All policies issued by incorporated insurers shall be subscribed by the president or vice president, or chairman, or chief executive officer, or, in case of the death, absence, or disability of those officers, by any two of the directors, and countersigned by the secretary of the corporation. All such policies are as binding and obligatory upon the corporation as if executed over the corporate seal.

CHAPTER 540

An act to amend Section 51203 of the Education Code, relating to education.

[Approved by Governor August 16, 1990. Filed with Secretary of State August 16, 1990.]

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

SECTION 1. Section 51203 of the Education Code is amended to read:

51203. Instruction upon the nature of alcohol, narcotics, restricted dangerous drugs as defined in Section 11032 of the Health and Safety Code, and other dangerous substances and their effects upon the human system as determined by science shall be included in the curriculum of all elementary and secondary schools. Instruction on the effects of alcohol, narcotics, restricted dangerous drugs as defined in Section 11032 of the Health and Safety Code, and other dangerous substances upon prenatal development as determined by science shall be included in the curriculum of all secondary schools. The governing board of the district shall adopt regulations specifying the grade or grades and the course or courses in which the instruction with respect to alcohol, narcotics, restricted dangerous drugs as defined in Section 11032 of the Health and Safety Code, and other dangerous substances shall be included. All persons responsible for the preparation or enforcement of courses of study shall provide for instruction on the subjects of alcohol, narcotics,

restricted dangerous drugs as defined in Section 11032 of the Health and Safety Code, and other dangerous substances.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 541

An act relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State August 21, 1990]

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Reading services to the blind in the California State University are inconsistent within the system and in most cases, not enough reading time is provided.

(2) Students very often are restricted in the area of selecting their own readers.

(3) Choice of reading location is not given to the student on some of the campuses. In particular, no off-campus reading is permitted, thus creating a hardship on blind students to complete course assignments within course timelines.

(4) Students should be advised of their rights and responsibilities within the California State University system when first enrolling in school.

(5) The Trustees of the California State University are aware of the above problems and have promised that immediate remedies will be instituted.

(b) The Trustees of the California State University, on or before December 1, 1990, shall submit a report to the Legislature addressing the issue of provision of ample reading hours for blind students. It shall also address the question of allowing the student to select his or her own reader. The report shall also discuss the issue of the student choosing his or her own location of receiving reader services. The

report shall also address the question of students' rights with regard to reading services.

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 resolve ongoing problems of blind students attending the California State University at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 542

An act to amend Sections 22352, 22357, and 22358.4 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990.]

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

SECTION 1. Section 22352 of the Vehicle Code is amended to read:

22352. The prima facie limits are as follows and shall be applicable unless changed as authorized in this code and, if so changed, only when signs have been erected giving notice thereof:

(a) Fifteen miles per hour:

(1) When traversing a railway grade crossing, if during the last 100 feet of the approach to the crossing the driver does not have a clear and unobstructed view of the crossing and of any traffic on the railway for a distance of 400 feet in both directions along the railway. This subdivision does not apply in the case of any railway grade crossing where a human flagman is on duty or a clearly visible electrical or mechanical railway crossing signal device is installed but does not then indicate the immediate approach of a railway train or car.

(2) When traversing any intersection of highways if during the last 100 feet of the driver's approach to the intersection the driver does not have a clear and unobstructed view of the intersection and of any traffic upon all of the highways entering the intersection for a distance of 100 feet along all those highways, except at an intersection protected by stop signs or yield right-of-way signs or controlled by official traffic control signals.

(3) On any alley.

(b) Twenty-five miles per hour:

(1) On any highway other than a state highway, in any business or residence district unless a different speed is determined by local authority under procedures set forth in this code.

(2) When passing a school building or the grounds thereof,

contiguous to a highway and posted with a standard "SCHOOL" warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. The prima facie limit shall also apply when passing any school grounds which are not separated from the highway by a fence, gate or other physical barrier while the grounds are in use by children and the highway is posted with a standard "SCHOOL" warning sign.

(3) When passing a senior center or other facility primarily used by senior citizens, contiguous to a street other than a state highway and posted with a standard "SENIOR" warning sign. A local authority is not required to erect any sign pursuant to this paragraph until donations from private sources covering those costs are received and the local agency makes a determination that the proposed signing should be implemented. A local authority may, however, utilize any other funds available to it to pay for the erection of those signs.

SEC. 2. Section 22357 of the Vehicle Code is amended to read:

22357. Whenever a local authority determines upon the basis of an engineering and traffic survey that a speed greater than 25 miles per hour would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon any street other than a state highway otherwise subject to a prima facie limit of 25 miles per hour, the local authority may by ordinance determine and declare a prima facie speed limit of 30, 35, 40, 45, or 50 miles per hour or a maximum speed limit of 55 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe. The declared prima facie or maximum speed limit shall be effective when appropriate signs giving notice thereof are erected upon the street and shall not thereafter be revised except upon the basis of an engineering and traffic survey. This section does not apply to any 25-mile-per-hour prima facie limit which is applicable when passing a school building or the grounds thereof or when passing a senior center or other facility primarily used by senior citizens.

SEC. 3. Section 22358.4 of the Vehicle Code is amended to read:

22358.4. Whenever a local authority determines upon the basis of an engineering and traffic survey that the prima facie speed limit of 25 miles per hour established by paragraph (2) or (3) of subdivision (b) of Section 22352 is more than is reasonable or safe, the local authority may, by ordinance or resolution, determine and declare a prima facie speed limit of 20 or 15 miles per hour, whichever is justified as the appropriate speed limit by such survey. The ordinance or resolution shall not be effective until appropriate signs giving notice of the speed limit are erected upon the highway and, in the case of a state highway, until the ordinance is approved by the Department of Transportation and the appropriate signs are erected upon the highway.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 543

An act to add Section 7004.5 to the Civil Code, and to amend Section 621 of the Evidence Code, relating to paternity.

[Approved by Governor August 24, 1990. Filed with Secretary of State August 27, 1990]

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

SECTION 1. Section 7004.5 is added to the Civil Code, to read:

7004.5. A court may order pendente lite relief consisting of an award of custody pursuant to Section 4600 or the granting of reasonable visitation rights pursuant to Section 4601, if it finds, based on the tests authorized by Section 621 of the Evidence Code, that a parent-child relationship exists pursuant to Section 621 of the Evidence Code and that the award of custody or the granting of visitation rights would be in the best interests of the child.

SEC. 2. Section 621 of the Evidence Code is amended to read:

621. (a) Except as provided in subdivision (b), the issue of a wife cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage.

(b) Notwithstanding subdivision (a), if the court finds that the conclusions of all the experts, as disclosed by the evidence based upon blood tests performed pursuant to Chapter 2 (commencing with Section 890) of Division 7, are that the husband is not the father of the child, the question of paternity of the husband shall be resolved accordingly.

(c) The notice of motion for blood tests under subdivision (b) may be filed not later than two years from the child's date of birth by the husband, or for purposes of establishing paternity by the presumed father or the child through or by the child's guardian ad litem.

(d) The notice of motion for blood tests under subdivision (b) may be filed by the mother of the child not later than two years from the child's date of birth if the child's biological father has filed an affidavit with the court acknowledging paternity of the child.

(e) Subdivision (b) shall not apply to any case coming within Section 7005 of the Civil Code, or to any case in which the wife, with the consent of the husband, conceived by means of a surgical procedure.

(f) The notice of motion for the blood tests pursuant to subdivision

(b) shall be supported by a declaration under oath submitted by the moving party stating the factual basis for placing the issue of paternity before the court. This requirement shall not apply to any case pending before the court on September 30, 1980.

(g) Subdivision (b) shall not apply to any case which has reached final judgment of paternity on September 30, 1980.

(h) As used in this section "presumed father" has the meaning given in Section 7004 of the Civil Code.

CHAPTER 544

An act to amend Section 11364 of the Health and Safety Code, relating to crimes.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990.]

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

SECTION 1. Section 11364 of the Health and Safety Code is amended to read:

11364. It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting, ingesting, or smoking (1) a controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 545

An act to amend Sections 6796, 6796.3, 6799, 8802, 8803, and 8805 of the Business and Professions Code, relating to engineers and land surveyors, and making an appropriation therefor.

[Approved by Governor August 24, 1990. Filed with Secretary of State August 27, 1990]

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

SECTION 1. Section 6796 of the Business and Professions Code is amended to read:

6796. Except as otherwise provided in this article, certificates of registration as a professional engineer, and certificates of authority may be renewed at any time within five years after expiration on filing of application for renewal on a form prescribed by the board and payment of all accrued and unpaid renewal fees. If the certificate is renewed more than 60 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs.

SEC. 2. Section 6796.3 of the Business and Professions Code is amended to read:

6796.3. Certificates of registration as a professional engineer, and certificates of authority to use the title "structural engineer," "soil engineer," or "consulting engineer" which are not renewed within five years after expiration may not be renewed, restored, reinstated, or reissued unless all the following apply:

(a) The registrant or certificate holder has not committed any acts or crimes constituting grounds for denial of registration or of a certificate under Section 480. If the registrant or certificate holder has been practicing with an expired license or delinquent license, the board may, in its discretion, deny the application for renewal, restoration, reinstatement, or reissuance, and may file a statement of issues, as described in Section 11504 of the Government Code, based upon the registrant's or certificate holder's practice with an expired or delinquent license. The board may also, in its discretion, renew, restore, reinstate, or reissue a license if the applicant has been practicing with an expired license or delinquent license, and the board may attach conditions to the renewal, restoration, reinstatement, or reissuance of the expired license or delinquent license.

(b) The registrant or certificate holder takes and passes the examination, if any, which would be required of him or her if he or she were then applying for the certificate for the first time, or otherwise establishes to the satisfaction of the board that, with due

regard for the public interest, he or she is qualified to practice the branch of engineering in which he or she seeks renewal or reinstatement.

(c) The registrant or certificate holder pays all of the fees that would be required of him or her if he or she were then applying for the certificate for the first time. If the registrant or certificate holder has been practicing in this state with an expired or delinquent license and receives a waiver from taking the examination as specified in subdivision (b) then he or she shall pay all accrued and unpaid renewal fees.

The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination pursuant to the provisions of this section.

SEC. 3. Section 6799 of the Business and Professions Code is amended to read:

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

(a) The fee for filing each application for registration as a professional engineer and each application for authority level designation at not more than one hundred seventy-five dollars ($175), and for each application for certification as an engineer-in-training at not more than sixty dollars ($60).

(b) The temporary registration fee for a professional engineer at not more than 25 percent of the application fee in effect on the date of application.

(c) The renewal fee for each branch of professional engineering in which registration is held, and the renewal fee for each authority level designation held, at no more than the professional engineer application fee currently in effect.

(d) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.

(e) The board shall establish by regulation an appeal fee for examination. The regulation shall include provisions for an applicant to be reimbursed the appeal fee if the appeal results in passage of examination. The fee charged shall be no more than the costs incurred by the board.

(f) All other document fees are to be set by the board by rule.

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

SEC. 4. Section 8802 of the Business and Professions Code is amended to read:

8802. Except as otherwise provided in this article, licenses issued under this chapter may be renewed at any time within five years after expiration on filing of application for renewal on a form prescribed by the board and payment of all accrued and unpaid renewal fees. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall

also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 8801, which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 5. Section 8803 of the Business and Professions Code is amended to read:

8803. A license which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, unless all of the following apply:

(a) The licensee has not committed any acts or crimes constituting grounds for denial of licensure under Section 480. If the licensee has been practicing with an expired license or delinquent license, the board may, in its discretion, deny the application for renewal, restoration, reinstatement, or reissuance, and may file a statement of issues, as described in Section 11504 of the Government Code, based upon the registrant's or licensee's practice with an expired or delinquent license. The board may also, in its discretion, renew, restore, reinstate, or reissue a license if the applicant has been practicing with an expired license or delinquent license, and the board may attach conditions to the renewal, restoration, reinstatement, or reissuance of the expired license or delinquent license.

(b) The licensee pays all of the fees which would be required if applying for the license for the first time. If the registrant or certificate holder has been practicing in this state with an expired or delinquent license and receives a waiver from taking the examination as specified in subdivision (c) then he or she shall pay all accrued and unpaid renewal fees.

(c) The licensee takes and passes the examination, if any, which would be required if applying for the license for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, the licensee is qualified to engage in the practice of land surveying.

The board may, by appropriate regulation, authorize the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

SEC. 6. Section 8805 of the Business and Professions Code is amended to read:

8805. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for licensure as a land surveyor at not more than one hundred seventy-five dollars ($175), and for each application for certification as a land surveyor-in-training (LSIT) at not more than sixty dollars ($60).

(b) The temporary registration fee for a land surveyor at not more

than 25 percent of the application fee in effect on the date of application.

(c) The renewal fee for a land surveyor at not more than the application fee.

(d) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.

(e) The board shall establish by regulation an appeal fee for examination. The regulation shall include provisions for an applicant to be reimbursed the appeal fee if the appeal results in passage of examination. The fee shall be no more than the costs incurred by the board.

(f) All other document fees are to be set by the board by rule.

CHAPTER 546

An act to amend Section 40600 of the Public Resources Code, relating to solid waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1990. Filed with Secretary of State August 27, 1990]

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

SECTION 1. Section 40600 of the Public Resources Code is amended to read:

40600. (a) The board, in consultation with the State Board of Equalization and the appropriate policy and fiscal committees of the Legislature, shall, on or before January 1, 1991, complete and submit to the Governor and the Legislature, a report and model legislation for introduction and sponsorship by the board during the 1991–92 Regular Session for the most effective means of enacting and implementing a disposal cost fee system on goods sold in California which are not subject to Division 12.1 (commencing with Section 14500) and which are normally disposed of in solid waste landfills or processed in transformation facilities.

(b) In evaluating any disposal cost fee, the board shall give highest priority to those disposable goods which comprise the greatest percentage of materials being disposed and the greatest potential for environmental degradation, and shall take into consideration disposable goods which are already effectively recycled, reduced, or reused.

(c) In evaluating any disposal cost fee, the board shall also take into consideration the following factors:

(1) The state of current and prospective recycling markets for the goods which are presently disposed.

(2) The extent to which the goods can be made of recyclable materials.

(3) The additional cost imposed on manufacturers and consumers thereby.

(4) The extent to which the fee will encourage manufacturers to ensure their materials contain recycled feedstock.

(d) The disposal cost fee shall be based on the estimated cost of handling and processing a material for recycling or disposal. The model disposal fees system recommended by the board shall be set in a manner that creates an incentive for the use of disposable materials for recycling over equivalent materials for disposal.

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 study and report on the disposal cost fee by the board is required to be completed and submitted to the Legislature by the California Integrated Waste Management Board on or before January 1, 1991. In order for the requirements of this act to be included in that study and report, it is, therefore, necessary that this act take effect immediately.

CHAPTER 547

An act to amend Sections 4984.7, 4986.80, 4996.3, 4996.4, and 4996.6 of the Business and Professions Code, relating to the Board of Behavioral Science Examiners, and making an appropriation therefor.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990]

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

SECTION 1. Section 4984.7 of the Business and Professions Code is amended to read:

4984.7. The amount of the fees prescribed by this chapter which relate to licensing of persons to engage in the business of marriage, family and child counseling is that fixed by the following schedule:

(a) The fee for applications for original licensure received on or after January 1, 1987, shall be one hundred dollars ($100).

(b) For those persons whose license expires on or after January 1, 1991, the renewal fee shall be one hundred fifty dollars ($150).

(c) The delinquency fee shall be that prescribed by Section 163.5. Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all outstanding delinquency fees.

(d) For those persons registering as interns on or after January 1, 1989, the registration fee shall be sixty dollars ($60).

(e) For those persons whose registration as an intern expires on or after January 1, 1989, the renewal fee shall be fifty dollars ($50).

(f) The written examination fee shall be one hundred dollars ($100) and the oral examination shall be one hundred dollars ($100).

(g) Persons who fail the written or oral examination may apply for reexamination and each application shall be accompanied by the fee for that examination. Persons failing to appear for the reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

(h) The fee for rescoring a written examination shall be ten dollars ($10). The fee for appeal of an oral examination shall be fifty dollars ($50).

(i) The fee for issuance of a duplicate registration, license, or certificate to replace one which was lost or destroyed or where there was a name change shall be ten dollars ($10).

(j) The fee for issuance of a certificate or letter of good standing shall be ten dollars ($10).

SEC. 2. Section 4986.80 of the Business and Professions Code is amended to read:

4986.80. The amount of the fees prescribed by this chapter which relate to the licensing of educational psychologists is that fixed by the following schedule:

(a) Persons applying for an original license after July 1, 1986, shall pay an application fee of one hundred dollars ($100).

(b) Persons whose license expires after January 1, 1991, shall pay a renewal fee of one hundred fifty dollars ($150).

(c) The delinquency fee shall be that prescribed by Section 163.5. Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

(d) The written examination fee shall be one hundred dollars ($100) and the oral examination shall be one hundred dollars ($100).

(e) An applicant who has failed the written or oral examination may apply for reexamination if he or she applies within the 12-month period subsequent to failure of the examination. The fee for each reexamination shall be the fee for each examination specified in subdivision (d). Persons failing to appear for reexamination once having been scheduled shall forfeit any reexamination fees paid.

(f) The fee for rescoring a written examination shall be ten dollars ($10). The fee for appeal of an oral examination shall be fifty dollars ($50).

(g) The fee for issuance of a duplicate registration, license, or certificate to replace one which was lost or destroyed or where there was a name change shall be ten dollars ($10).

(h) The fee for issuance of a certificate or letter of good standing shall be ten dollars ($10).

SEC. 3. Section 4996.3 of the Business and Professions Code is amended to read:

4996.3. (a) Each application for original licensure received on or after January 1, 1991, shall be accompanied by an application fee of one hundred dollars ($100) and a fee of one hundred dollars ($100) for the written examination and one hundred dollars ($100) for the oral examination, which shall be deposited by the board into the State Treasury to the credit of the Behavioral Science Examiners Fund.

(b) The fee for rescoring a written examination shall be ten dollars ($10). The fee for an appeal of an oral examination shall be fifty dollars ($50).

SEC. 4. Section 4996.4 of the Business and Professions Code is amended to read:

4996.4. Notwithstanding Section 4996.3, an applicant who has failed the written or oral examination may apply for reexamination upon payment of the fee specified for that examination if he or she applies within the 12-month period subsequent to failure of the examination. Persons failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

SEC. 5. Section 4996.6 of the Business and Professions Code is amended to read:

4996.6. (a) The renewal fee for licenses which expire on or after January 1, 1991, shall be one hundred fifty dollars ($150) and shall be collected on a biennial basis by the board in accordance with Section 152.6. The fees shall be deposited in the State Treasury to the credit of the Behavioral Science Examiners Fund.

(b) If the license is renewed more than 30 days after its expiration, the licensee shall, as a condition precedent to renewal, also pay a delinquency fee in the amount prescribed by Section 163.5.

Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

(c) The fee for issuance of a duplicate registration, license, or certificate to replace one which was lost or destroyed or where there was a name change shall be ten dollars ($10).

(d) The fee for issuance of a certificate or letter of good standing shall be ten dollars ($10).

SEC. 6. The Board of Behavioral Science Examiners shall, by October 1, 1991, and annually thereafter, prepare information containing fiscal year data showing the enforcement costs incurred by the board with respect to each license category regulated by the board. This information shall be available upon request.

CHAPTER 548

An act to amend Sections 5087 and 5088 of the Penal Code, and to amend Section 2.5 of Chapter 1549 of the Statutes of 1982, relating to correctional institutions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990.]

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

SECTION 1. 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 either as an ex officio voting member of the board, or as a gubernatorial appointee of the board, as specified in Section 5088.

SEC. 2. Section 5088 of the Penal Code is amended to read:

5088. The Governor shall appoint six members of the board. The Governor may, in addition, appoint as a member of the board the chancellor of the campus affiliated with the institute, rather than that chancellor serving as an ex officio voting member of the board as provided in Section 5087. One of these appointees 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. 3. Section 2.5 of Chapter 1549 of the Statutes of 1982 is amended to read:

Sec. 2.5. (a) The Joint Legislative Committee on Prison Construction and Operation is hereby created. The committee shall assume primary responsibility for providing close legislative scrutiny over prison construction and operation.

(b) The committee shall also investigate and make recommendations on inmate population management issues as they affect problems of overcrowding, recidivism, and successful return to society by the inmate population.

(c) The committee shall consist of three Members of the Senate

appointed by the Committee on Rules thereof, and three Members of the Assembly appointed by the Speaker thereof. The chairperson shall appoint staff persons who shall be able to inspect prison facilities and departmental documents except as otherwise provided by law.

(d) 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.

(e) This section shall remain in effect until January 1, 1993, and as of that date is repealed.

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

In order for this act to be applicable as soon as possible to facilitate the orderly management of the state's prison system, it is necessary that this act take effect immediately.

CHAPTER 549

An act to amend Section 20603 of, and to add Section 21251.132 to, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990]

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

SECTION 1. 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 or Section 21251.132 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, unless the member subsequently elects to become subject to Section 21251.13, as authorized by subdivision (c) of Section 20013.7. A member who elects to become subject to Section 21251.13 shall contribute at the rate specified in subdivision (a) or (b) of this section, as determined by the member's status with the federal system, and the rate shall be applied from the first of the month following the date of the election. A member who makes the election shall also contribute for service prior to the date the contribution rate was applied, in the manner specified in Section 20813.5. A member who elected to become subject to Section 21251.13 solely for service rendered on or after the effective date of the election, as authorized by subdivision (c) of Section 20013.7 during the period between November 1, 1988, and October 31, 1989, is not required to make the contributions specified in Section 20813.5.

(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 Units 7 and 8 are waived for the period April 15, 1985, through June 30, 1988.

This subdivision applies to State Bargaining Units 7 and 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. 2. Section 21251.132 is added to the Government Code, to read:

21251.132. The combined current and prior service pensions for a local miscellaneous member is a pension derived from the contribution of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of local miscellaneous member with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50	0.713
50¼	0.725
50½	0.737
50¾	0.749
51	0.761
51¼	0.775
51½	0.788
51¾	0.801
52	0.814
52¼	0.828
52½	0.843
52¾	0.857
53	0.871
53¼	0.886
53½	0.902
53¾	0.917
54	0.933
54¼	0.950
54½	0.966
54¾	0.983
55	1.000
55¼	1.007
55½	1.013
55¾	1.020
56	1.026
56¼	1.033
56½	1.039
56¾	1.046
57	1.052
57¼	1.059
57½	1.065
57¾	1.072
58	1.078
58¼	1.085
58½	1.091
58¾	1.098
59	1.105
59¼	1.111
59½	1.118
59¾	1.124
60	1.131
60¼	1.137
60½	1.144
60¾	1.150
61	1.157
61¼	1.163

61½	1.170
61¾	1.176
62	1.183
62¼	1.189
62½	1.196
62¾	1.202
63	1.209

The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation which does not exceed four hundred dollars ($400) per month for all services of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency which enters into a contract after July 1, 1971, and who elects not to be subject to this paragraph or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

This section shall supersede Section 21251.13 with respect to all local miscellaneous members who retire after the date this section becomes applicable to their respective employers.

This section shall not apply to a contracting agency nor its employees unless and until the contracting agency elects to make all local miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 550

An act to add Chapter 18 (commencing with Section 77501) to Division 22 of the Food and Agricultural Code, relating to forest products, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990]

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

SECTION 1. Chapter 18 (commencing with Section 77501) is added to Division 22 of the Food and Agricultural Code, to read:

CHAPTER 18. CALIFORNIA FOREST PRODUCTS COMMISSION

Article 1. Declaration and General Provisions

77501. The production and marketing of forest products constitute an important industry of this state; the industry provides substantial and necessary revenues for the state and employment for its citizens.

77502. The maintenance of the forest products industry of California is necessary to ensure the public of a continuous supply of forest products and the maintenance of needed levels of income for those persons engaged in the industry.

77503. The production and marketing of forest products produced in this state is hereby declared to be affected with a public interest. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

77504. No action taken by the commission, or by any individual in accordance with this chapter or with the rules and regulations adopted pursuant to this chapter, is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

77505. This chapter shall be liberally construed. If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the 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.

77506. It is hereby declared as a matter of legislative determination that members of the commission are intended to represent and further the interest of a particular industry concerned

and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are elected or appointed to the commission, the particular industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

77507. A commission form of administration created by this chapter is designed to deal with the broad fields of generic product promotion of forest products, public information and education, and research.

Article 2. Definitions

77521. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

77522. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

77523. "Commission" means the California Forest Products Commission.

77524. "Director" means the Director of Food and Agriculture.

77525. "Ex officio" means a nonvoting member of the commission.

77526. "Marketing year" or "fiscal year" means the period beginning January 1 of any year and extending through December 31 of the same year.

77527. "Person" means an individual, partnership, corporation, firm, company, or other entity doing business in California.

77528. "Producer" means any person who owns timber in California immediately prior to felling, or the first person who acquires either the legal title or beneficial title to timber after it has been felled from land owned in California by a federal agency, or any other person or agency or entity exempt from property taxation under federal or state law.

"Producer" includes any person who owns or acquires legal title or beneficial title to downed timber in this state and also includes the seller of timber located on land in the state owned by that seller if the timber sales agreement, contract, or other document provides for the payment of the purchase price on the basis of actual timber volume scaled and does not contain a passage of title clause.

"Producer" does not include any person who sells or acquires in any marketing year less than 5,000,000 board feet net Scribner Decimal C log rule, or the equivalent thereof as determined by the commission.

77529. "Product promotion" means the generic promotion of forest products in domestic and foreign markets. "Product promotion" does not include reference to either unprocessed logs sold in foreign markets or to rough-sawn products sold in foreign

markets for remanufacture.

77530. "Research" means any economic, cultural, or biological search, inquiry, examination, investigation, or experimentation, or any other search, inquiry, examination, investigation, or experimentation.

77531. "Timber" or "forest products" means trees of any species maintained for eventual harvest whether planted or of natural growth, standing or down, on privately or publicly owned land, and also includes wood products related thereto, but does not mean nursery stock.

Article 3. The California Forest Products Commission

77541. (a) There is in the state government the California Forest Products Commission. The commission consists of nine producers, and one public member. Three producers shall be elected by and from producers of 5,000,000 to 20,000,000, inclusive, board feet net Scribner Decimal C log rule, or the equivalent thereof, in the preceding marketing year, three producers shall be elected by and from producers of between 20,000,000 to 100,000,000, inclusive, board feet net Scribner Decimal C log rule, or the equivalent thereof, in the preceding marketing year, and three producers shall be elected by and from producers of over 100,000,000 board feet net Scribner Decimal C log rule, or the equivalent thereof, in the preceding marketing year.

(b) The public member shall be appointed to the commission by the director from the nominees recommended by the commission.

(c) The director, and other appropriate individuals, as determined by the commission, shall serve as ex officio members of the commission.

77542. (a) The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.

(b) If the commission refuses or fails to cease these activities or functions or to make corrections required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until the cessation or correction of the activities or functions, as required by the director, has been accomplished by the commission.

(c) Any actions of the commission in violation of the written notice are invalid. The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.

(d) At the same time the written notice is provided to the commission, the director shall notify the commission in writing of the specific acts which the director determines are not in the public interest or are in violation of this chapter, the director's reasons for

requiring a cessation or correction of specific existing or proposed activities or functions, and the director's recommendations with respect to any action that will make the activities or functions acceptable.

77543. The commission or the director may bring an action for judicial relief from the director's written notice, or from noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

77544. When the director is required to concur in a decision of the commission, the director shall concur, refuse to concur, or request additional information from the commission within 15 working days from the date the director receives notification of the decision.

77545. The commission shall reimburse the director for all expenses incurred by the director in carrying out his or her duties and responsibilities pursuant to this chapter. However, a court may, if it finds that the director has acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for the payment of the director's legal costs with regard to that action.

77546. An alternate member to each member of the commission, except the ex officio members, shall be elected or appointed in the same manner and for the same term as the member. Except as provided in Section 77551, an alternate member shall, in the absence of the member for whom he or she is an alternate, serve in the place of the member and shall have and exercise all of the rights, privileges, and powers of the member when serving on the commission. In the event the status of a member changes thereby making the member ineligible to serve, or in the event of the death, removal, resignation, or disqualification of a member, the alternate member shall act as a member of the commission until a qualified successor is elected.

77547. Any vacancy on the commission occurring by the failure of any person elected or appointed to or serving on the commission as a member or alternate member to continue in his or her position because of a change in his or her status thereby making the person ineligible to serve, or because of the death, removal, resignation, or disqualification of a member, shall be filled for the unexpired portion of the term by a majority vote of the remaining members of the commission. That person shall possess all of the same qualifications set forth in this article as is required for the person whose office he or she is to occupy.

77548. (a) Any producer member and his or her alternate member shall be a producer or an employee representing a producer. Producer members and their alternate members shall maintain their qualifications during their term of office.

(b) Not more than one producer member and one alternate

member shall be persons employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association, or business organization. Any alternate serving on the commission who is employed by, or connected in a proprietary capacity with, a person serving as a member of the commission from the same corporation, firm, partnership, association, or business organization, shall serve as an alternate to the member.

(c) The public member shall have all the powers, rights, and privileges of any other member of the commission.

77549. The term of office of each member, except the ex officio members, shall be three years, commencing with the beginning of the following marketing year and until a qualified successor is elected.

However, with respect to the first producer members of the commission, one-third of each category specified in Section 77541 shall serve for one year, one-third shall serve for two years, and one-third shall serve for three years, with the determination of the term of each member within each category to be made by lot.

No member may serve more than two consecutive three-year terms.

77550. The commission shall be and is hereby declared to be a corporate body. It may sue and be sued, enter into contracts, adopt a seal, and have and possess all of the powers of a corporation. Copies of its proceedings, records, and acts when authenticated, shall be prima facie evidence of the truth of all statements therein.

77551. A quorum of the commission shall be six members of whom at least five shall be producer members. Notwithstanding Section 77546, any alternate member may serve in the absence of any member if the member's alternate is also absent and the action is necessary to establish a quorum. Except as provided in Section 77663, the vote of a majority of the members present at a meeting at which there is a quorum constitutes an act of the commission.

77552. The director or his or her representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission.

77553. No member, alternate member, or member of a committee established by the commission who is a nonmember of the commission, shall receive compensation. Each member of the commission or each alternate member serving in the place of a member, except ex officio members who are officers or employees of a governmental entity, and each member of a committee established by the commission who is a nonmember of the commission, may receive per diem of not more than one hundred dollars ($100) per day, as established by the commission, and may also receive necessary traveling expenses and meal allowances, as approved by the commission. The per diem, traveling expenses, and allowances may be paid for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the

commission, as approved by the commission.

77554. All funds received by any person from the assessments levied pursuant this chapter or otherwise received by the commission shall be deposited in banks which the commission may designate and shall be disbursed by order of the commission through an agent designated by the commission for that purpose. The agent shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in the amount of not less than twenty-five thousand dollars ($25,000).

77555. The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission.

No member of the commission, alternate member, or any employee or agent thereof, is personally liable for the contracts of the commission. No member of the commission, alternate member, or any employee or agent thereof, is responsible individually in any way to any other person for errors in judgment, mistakes, or other acts, either of commission or of omission, as principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No member of the commission, alternate member, or any employee or agent thereof, is responsible individually for any act or omission of any other member of the commission, alternate member, or any employee or agent thereof.

Liability is several and not joint, and no member of the commission, alternate member, or any employee or agent thereof, is liable for the default of any other member of the commission, alternate member, or any employee or agent thereof.

Article 4. Powers and Duties of the Commission

77571. The powers and duties of the commission include, but are not limited to, all of those specified in this article.

77572. The commission may adopt and, from time to time, alter, rescind, modify, and amend bylaws, regulations, operating procedures, and orders for carrying out this chapter, including regulations for appeals from any bylaw, regulation, operating procedure, or order of the commission.

77573. The commission may administer and enforce this chapter and do and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, the proper implementation of this chapter.

77574. The commission may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

77575. The commission may employ a person to serve at the pleasure of the commission as president and chief executive officer

of the commission, and other personnel, including legal counsel, necessary to carry out this chapter.

If any person employed by the commission engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the person.

The commission may retain a management firm or the staff from any board, commission, or committee of the state or federal government to perform the functions prescribed by this section under the control of the commission.

77576. The commission may fix the compensation for all of its employees.

77577. The commission may appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out this chapter.

77578. The commission may establish offices and incur expenses, enter into any and all contracts and agreements, create liabilities, and borrow funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

77579. The commission shall keep accurate books, records, and accounts of all of its dealings which shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director.

A summary of the audit shall be reported to all persons subject to this chapter, a copy of which shall also be submitted to the director. In addition, the director may, as he or she determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

77580. The commission may present facts to, and negotiate with state, federal, and foreign agencies on matters which affect this chapter.

77581. The commission may enter into contracts to receive or render services in formulating and conducting plans and programs and any other contracts or agreements that the commission may deem necessary for carrying out this chapter.

77582. The commission may conduct, and contract with others to conduct, research, including the study, analysis, accumulation, and dissemination of information obtained from the research or elsewhere, regarding this chapter.

77583. The commission may promote the sale of forest products by advertising and other promotional means, including cost sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and

foreign markets for forest products and to educate and instruct the public with respect to the use of forest products. The commission may not promote the sale of unprocessed logs in foreign markets or rough-sawn products for remanufacture in foreign markets. Promotional activities for foreign export markets shall be limited exclusively to value-added forest products in finished manufactured form and may not include cants.

77584. The commission may accept contributions or match private, state, or federal funds, and employ or make contributions of funds to other persons or state or federal agencies, for purposes of carrying out this chapter.

77585. The commission may publish and distribute, without charge, bulletins or other communications to persons subject to this chapter.

77586. The commission shall establish an assessment rate to defray its operating costs.

77587. The commission shall adopt an annual budget according to generally accepted accounting practices. The director shall concur in the adoption of the budget prior to the encumbrance of funds, except for any obligations incurred pursuant to Section 77576.

77588. The commission shall submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized pursuant to this chapter.

77589. The commission and the director shall keep confidential and shall not disclose, except when required in a judicial proceeding, all lists in their possession of persons subject to this chapter.

77590. The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

Article 5. Implementation and Voting Procedures

77601. (a) Within 60 days after the effective date of this chapter, the director shall establish a list of producers, eligible to vote on the implementation of this chapter. In establishing the list, the director may require producers and others to submit the names and mailing addresses of all known producers. The director also may require that the information provided include the volume of timber sold or acquired in the preceding marketing year by persons subject to this chapter or, in the alternative, may establish procedures for receiving the information at the time of the referendum vote specified in Section 77602. The director may also request the assistance of the State Board of Equalization in gathering the information. Notwithstanding any other provision of law, the State Board of Equalization shall provide the director the information which shall be used only for purposes specified in this chapter. The request for the information shall be in writing and the response shall be provided as required under this section within 15 days following the

receipt of the request.

(b) Any producer whose name does not appear on the list may have his or her name placed on the list by filing with the director a signed statement identifying himself or herself as a producer. The absence of a producer's name from the list does not exempt the person from paying assessments and does not invalidate any votes conducted pursuant to this chapter.

(c) Proponents and opponents of the commission may contact producers on the lists in a form and manner prescribed by the director so long as all expenses associated with the contacts are paid in advance.

77602. This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the director finds, in a referendum vote conducted by the director, that at least 40 percent of the total number of producers from the list established by the director pursuant to this article participate and that either of the following has occurred:

(a) Sixty-five percent of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting sold or acquired a majority of the total volume of timber in the preceding marketing year by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting sold or acquired 65 percent or more of the total volume of timber in the preceding marketing year by all of the producers who voted in the referendum.

77603. The director shall establish a period, which shall not be less than 10 days or more than 60 days, to conduct the referendum, and may prescribe additional procedures that may be necessary to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period, except that the total referendum period may not exceed 60 days.

77604. The nonreceipt of a ballot by any producer shall not invalidate a referendum.

77605. If the director finds that a favorable vote has been given as provided in Section 77602, the director shall certify and give notice of the favorable vote to all affected producers whose names and addresses are on file with the director.

77606. If the director finds that a favorable vote has not been given as provided in Section 77602, the director shall certify and declare this chapter inoperative. The director may conduct another implementation referendum vote one year or more after the previous referendum has been held.

77607. Upon certification of the commission, the director shall contact all producers by mail or call meetings of producers for the purpose of nominating and electing persons to the commission. All producers on the director's list shall be provided written notice of any election meetings at least 10 days prior to the meeting date.

To be eligible for election to the commission, nominees are required to present to the director a nomination petition with the signatures of at least three eligible producers from the category of producers specified in Section 77541 from which the nominee is seeking election.

77608. Subsequent to the first election of members and alternate members of the commission pursuant to this chapter, persons to be elected to the commission shall be selected pursuant to nomination and election procedures established by the commission with the approval of the director.

77609. (a) Prior to the referendum vote conducted by the director pursuant to Section 77602, the proponents of the commission shall deposit with the director the amount that the director deems necessary to defray the expenses of preparing the necessary list and information and conducting the vote.

(b) Any funds which are not used to carry out Section 77602 shall be returned to the proponents of the commission who deposited the funds with the director.

(c) Upon the establishment of the commission, the commission may reimburse the proponents of the commission for any funds deposited with the director which were used in carrying out Section 77602 and for any legal expenses and costs incurred in establishing the commission.

Article 6. Assessments and Records

77621. (a) The commission shall establish the assessment for the marketing year not later than January 1 of each year or as soon thereafter as is possible.

(b) The assessment shall not exceed one dollar ($1) per thousand board feet net log scale Scribner Decimal C log rule, or the equivalent thereof, as determined by the commission.

(c) The producer shall pay the assessment to the commission at the time and in the manner prescribed by the commission.

(d) An assessment of more than the amount provided for in subdivision (b) may not be charged unless and until a greater assessment is approved pursuant to the vote requirements specified in Section 77602.

77622. Any person requesting an exemption from this chapter shall file an affidavit with the commission attesting that he or she is not a producer. The affidavit shall contain all of the information required by the commission. The commission shall review the affidavit, conduct any additional investigation it deems appropriate, and approve or deny the affidavit.

77623. Every producer shall keep a complete and accurate record of all transactions involving the sale or purchase of timber. The records shall be in simple form and contain information as the commission shall prescribe. The records shall be retained by the producer for a period of two years and shall be offered and submitted

for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

77624. (a) All proprietary information obtained by the commission or the director from producers is confidential and shall not be disclosed except when required in a judicial proceeding.

(b) Information on volume shipments, product value, and any other related information which is required for reports to governmental agencies, financial reports to the commission or aggregate sales and inventory information, and any other information which the commission requires that gives only totals, but excludes individual producer information, may be disclosed by the commission.

77625. Any assessment which is levied pursuant to this chapter is a personal debt of every producer so assessed.

77626. Any producer who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, pay 1½ percent interest per month on the unpaid balance.

77627. When the producer is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for violating this chapter, including but not limited to, failing to pay assessments or to collect assessments, shall also include identical liability upon each director or officer of the corporation.

Article 7. Actions and Penalties

77641. It is a misdemeanor for any person to do any of the following:

(a) Refuse to render a report, statement, or record required by the commission.

(b) Furnish a false report, statement, or record required by the commission.

(c) Fail or refuse to furnish the commission, or its duly authorized agents, information concerning the names and addresses of persons from whom timber has been received and the quantity so received.

(d) Secrete, destroy, or alter records required to be kept under this chapter.

77642. The commission shall establish procedures for the purpose of granting individuals aggrieved by its actions or determinations an informal hearing before the commission, or before a committee of the commission designated for this purpose. Appeals from decisions of the commission may be made to the director. The determination of the director shall be subject to judicial review upon petition filed with the appropriate superior court.

77643. (a) The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties and for the obtaining of injunctive

relief or specific performance regarding this chapter and the rules and regulations adopted pursuant to this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. The commission shall not be required to post a bond as a condition for the issuance of any writ of attachment or injunctive relief.

(b) A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of that code is not required. Injunctive relief shall be granted pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or inadequate remedy at law specified in Sections 526 and 527 of that code is not required.

(c) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding timber until there is full compliance and satisfaction of the judgment. Upon a favorable judgment for the commission, it is entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

77644. The repeal or suspension and termination of this chapter shall not do any of the following:

(a) Affect or waive any right, duty, obligation, or liability which has arisen or which may thereafter arise in connection with this chapter.

(b) Release or extinguish any violation of this chapter.

(c) Affect or impair any right or remedies of the commission with respect to any violation.

Article 8. Continuation or Suspension and Termination

77661. Between January 1, 2001, and December 31, 2001, inclusive, the commission shall hold a referendum among producers to determine whether the operations of this chapter shall be approved and continued in effect.

There is a favorable vote under this article if the director determines from the referendum that a majority of the eligible producers voting in the referendum voted in favor of continuing the operations of this chapter. If the director finds that a favorable vote has been given, the director shall so certify and this chapter shall remain in effect.

If the director finds that a favorable vote has not been given, the

director shall so certify and declare the operations of this chapter suspended upon the expiration of the marketing season ending December 31, 2001. Thereupon, the operation of the commission shall be concluded and funds distributed in the manner provided in Section 77665. No bond or security shall be required for the referendum.

77662. Following a favorable referendum conducted prior to December 31, 2001, a referendum shall be conducted by the commission every 10 years thereafter unless a referendum is conducted as the result of a petition pursuant to this article. In that case, the referendum shall be every 10th year following the industry petitioned referendum following the procedure specified in Section 77661.

77663. (a) Upon a finding by a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing year.

(b) The director shall, upon receipt of the recommendation, or may, after a public hearing to review a petition filed with the director requesting a suspension signed by not less than 20 percent of the producers who sold or acquired not less than 20 percent of the total volume of timber in the immediately preceding marketing year, hold a referendum among the producers to determine if the operations of the commission shall be suspended. However, the director shall not hold a referendum as a result of the petition, unless the petitioner shows, by a preponderance of the evidence, in a manner prescribed by the director, that the operation of this chapter has not tended to effectuate its declared purposes.

(c) The director shall establish a referendum period, which shall not be less than 10 days or more than 60 days. The director may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the director shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers from the list established by the director participate in the referendum, the director shall suspend the operation of this chapter if the director finds either one of the following has occurred:

(1) Sixty-five percent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting sold or acquired a majority of the total volume of timber in the preceding marketing year by all of the producers who voted in the referendum.

(2) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting sold or acquired 65 percent or more of the total volume of timber in the preceding marketing year by all of the producers who voted in the referendum.

77664. (a) The director shall terminate the commission at the end of the then current marketing year if the director finds that the termination of the commission is requested in writing, within a 90-day period, by at least 51 percent of the eligible producers that sold or acquired at least 51 percent of the total volume of timber.

(b) The producer originating the request shall file a written notice with the director in a manner that establishes the date the request is initiated. Any person may withdraw his or her name from the petition requesting the termination prior to the time the request is presented to the director.

(c) The signatures to the petition requesting the termination need not all be appended to one sheet of paper. Each producer signing the petition shall specify his or her place of business in a manner that will enable the location to be readily ascertained.

(d) The petition shall bear a copy of the notice of intention to terminate the commission. Signatures shall be secured within the time limit specified in this section.

77665. After the effective date of suspension, the operation of the commission shall be concluded and the funds remaining held by the commission and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all producers from whom assessments were collected in the immediately preceding marketing year. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the prorate refund to these producers, the remaining funds shall be withdrawn from the approved depository and paid to an appropriate program conducted by the University of California or the California State University, another state agency, or a federal agency which deals with the purposes of this chapter. If no such program exists, the funds shall be paid to the State Treasury as unclaimed trust funds.

77666. Upon suspension of the operation of this chapter, the commission shall mail a copy of the notice of suspension to all persons affected by the suspension whose names and addresses are on file.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California 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 to conduct promotional, public information and

educational, and research programs for timber products as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 551

An act to amend Section 17540.13 of the Business and Professions Code, relating to travel promoters.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990.]

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

SECTION 1. Section 17540.13 of the Business and Professions Code is amended to read:

17540.13. In addition to any civil penalties provided in this chapter, violation of this article is a misdemeanor. In addition, any violation of Section 17540.9, where money or real or personal property received by a travel promoter aggregates one thousand dollars ($1,000) or more in any consecutive 12-month period, or the payment made by or on behalf of any one passenger exceeds four hundred dollars ($400), is punishable either as a misdemeanor by imprisonment in the county jail for not more than one year, or as a felony punishable by imprisonment in the state prison for 16 months, two, or three years.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 552

An act to amend Section 4709 of the Labor Code, relating to workers' compensation.

[Approved by Governor August 24, 1990. Filed with Secretary of State August 27, 1990.]

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

SECTION 1. Section 4709 of the Labor Code is amended to read:

4709. (a) Notwithstanding any other provisions of law to the contrary, each dependent of any peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, or 830.6 of the Penal Code, who is killed in the performance of duty or who dies or is totally disabled as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of duty, when the death, accident, or injury is compensable under this division or Division 4.5 (commencing with Section 6100) shall be entitled to a scholarship at any one of the institutions of collegiate grade located in California if the institution offers a two-year junior college or four-year college course and is accredited or is a candidate for accreditation by the Western Association of Schools and Colleges. The scholarship is to include payment of tuition and fees, monthly allowance, books, and supplies. If the dependent attends a four-year college or university, the scholarship award shall not exceed six thousand dollars ($6,000) over a period not to exceed six years, with a maximum of one thousand five hundred dollars ($1,500) per year if he or she has demonstrated his or her financial need for the scholarship. If the dependent attends a community college, the scholarship award shall not exceed five hundred dollars ($500) per year for a period not to exceed four years. This shall not preclude any other benefits provided by law.

(b) Each dependent of an officer or employee of the Department of Corrections or the Department of Youth Authority described in Section 20017.77 of the Government Code who is killed in the performance of duty, or who dies or is totally disabled as a result of an accident or an injury incurred in the performance of duty, when the death, accident, or injury is caused by the direct action of an inmate, and is compensable under this division or Division 4.5 (commencing with Section 6100), shall also be entitled to a scholarship specified in this section.

(c) Notwithstanding any other provisions of law to the contrary, each dependent of any firefighter employed by counties, cities, cities and counties, districts and other political subdivisions of the state, who is killed in the performance of duty or who dies or is totally disabled as a result of an accident or injury incurred in the performance of duty, when the death, accident, or injury is

compensable under this division or Division 4.5 (commencing with Section 6100), shall also be entitled to a scholarship specified in this section.

(d) Nothing in this section shall be interpreted to allow the admittance of the dependent into a college or university unless the dependent is otherwise qualified to gain admittance to the college or university.

(e) The scholarship provided for by this section shall be paid out of funds annually appropriated in the Budget Act to the Student Aid Commission established by Article 2 (commencing with Section 69510) of Chapter 2 of Part 42 of the Education Code.

As used in this section, "dependent" means the children (natural or adopted) or spouse, at the time of the death or injury, of the peace officer, law enforcement officer, or firefighter.

CHAPTER 553

An act to amend Sections 31027, 31105, and 31141 of the Water Code, relating to county water districts.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990.]

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

SECTION 1. Section 31027 of the Water Code is amended to read:

31027. (a) A district may prescribe and define by ordinance the restrictions, prohibitions, and exclusions. Every such ordinance shall be in full force and effect immediately upon adoption, but shall be published once in full in a newspaper of general circulation, printed, published and circulated in the district within 10 days after adoption, or if there be no such newspaper it shall be posted within 10 days after adoption in three public places within the district.

(b) The publication of ordinances, as required by subdivision (a), may be satisfied by either of the following actions:

(1) The district may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. The summary shall be prepared by an official designated by the board. A summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the board at least five days prior to the board meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, the board shall publish a summary of the ordinance or amendment with the names of those directors voting for and against the ordinance or amendment and the official shall post in the office of the board a certified copy of the full text of the adopted ordinance

or amendment along with the names of those directors voting for and against the 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 proposed or adopted ordinance or amendment, and if the board so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the county shall be published at least five days prior to the board meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information about, the proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of the ordinance or amendment, and the names of those directors voting for and against the ordinance or amendment.

SEC. 2. Section 31105 of the Water Code is amended to read:

31105. (a) A district may adopt ordinances relating to the provision of services and facilities pursuant to this article and the regulation of those services and facilities. Every such ordinance shall be in full force and effect immediately upon adoption, but shall be published once in full in a newspaper of general circulation, printed, published and circulated in the district within 10 days after adoption, or if there be no such newspaper it shall be posted within 10 days after adoption in three public places within the district.

(b) The publication of ordinances, as required by subdivision (a), may be satisfied by either of the following actions:

(1) The district may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. The summary shall be prepared by an official designated by the board. A summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the board at least five days prior to the board meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, the board shall publish a summary of the ordinance or amendment with the names of those directors voting for and against the ordinance or amendment and the official shall post in the office of the board a certified copy of the full text of the adopted ordinance or amendment along with the names of those directors voting for and against the 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 proposed or adopted ordinance or amendment, and if the board so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the county shall be published at least five days prior to the board meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted.

Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information about, the proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of the ordinance or amendment, and the names of those directors voting for and against the ordinance or amendment.

SEC. 3. Section 31141 of the Water Code is amended to read:

31141. (a) A district may adopt ordinances relating to the provision of sanitation services and the regulation of those services. Every such ordinance shall be in full force and effect immediately upon adoption, but shall be published once in full in a newspaper of general circulation, printed, published and circulated in the district within 10 days after adoption, or if there be no such newspaper it shall be posted within 10 days after adoption in three public places within the district.

(b) The publication of ordinances, as required by subdivision (a), may be satisfied by either of the following actions:

(1) The district may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. The summary shall be prepared by an official designated by the board. A summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the board at least five days prior to the board meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, the board shall publish a summary of the ordinance or amendment with the names of those directors voting for and against the ordinance or amendment and the official shall post in the office of the board a certified copy of the full text of the adopted ordinance or amendment along with the names of those directors voting for and against the 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 proposed or adopted ordinance or amendment, and if the board so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the county shall be published at least five days prior to the board meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information about, the proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of the ordinance or amendment, and the names of those directors voting for and against the ordinance or amendment.

CHAPTER 554

An act relating to postsecondary education.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990]

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

SECTION 1. The Legislature finds and declares as follows:

(a) California's education system must promote rigorous academic pursuits and provide a wide variety of options for our students. Students should not be forced to remain in high school if they are better able to learn at the college level.

(b) Several states, including Minnesota, Colorado, Florida, Maine, Utah, and Washington, have established a postsecondary enrollment options program, to allow high school students to take postsecondary classes at state expense, regardless of their previous academic performance. The object of the program is to improve educational quality and accountability through market competition, while expanding access to postsecondary education.

(c) Preliminary evidence indicates that the postsecondary enrollment options program has been successful. Challenged by the potential loss of funding and students, the public high schools quadrupled their number of advanced placement courses in a two-year period after the postsecondary enrollment options act became law. The high schools are also developing cooperative relationships with the postsecondary schools, so that college level classes can be taught at the high schools.

SEC. 2. The California Postsecondary Education Commission shall review and assess the existing postsecondary enrollment options program in the various states, to determine if the postsecondary enrollment options program has been successful in achieving its objectives, and if the postsecondary enrollment options program should be implemented in California in the form of an act such as that proposed by Assembly Bill 1620, as introduced in the 1989–90 Regular Session of the Legislature. In conducting this review and assessment, the commission shall:

(a) Identify the opportunities that currently exist in California for high school students to enroll in college level courses, and the number of students who annually take advantage of these opportunities.

(b) Identify the strengths and weaknesses of the postsecondary enrollment options program in each state.

(c) Estimate the financial costs to the state if California implemented a postsecondary enrollment options program similar to the existing models.

(d) Present specific recommendations for implementing all or part of the postsecondary enrollment options program in California,

if, in the judgment of the commission, the program has been successful in other states and it would promote rigorous academic and it would promote rigorous academic pursuits and provide a wide variety of options for students in California.

In preparing the review and assessment, the commission shall consult with an advisory committee appointed by the commission and composed of representatives from public and private schools, colleges, and universities in California. The commission shall submit its report to the Legislature and the Governor on or before February 1, 1992. Funding for the costs associated with this project shall be provided to the commission through the annual budget act.

CHAPTER 555

An act to amend Section 13651 of the Business and Professions Code, relating to petroleum.

[Approved by Governor August 24, 1990. Filed with Secretary of State August 27, 1990.]

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

SECTION 1. Section 13651 of the Business and Professions Code is amended to read:

13651. (a) On and after January 1, 1985, every service station in this state shall provide, during operating hours, water, compressed air, and a gauge for measuring air pressure, to the public for use in servicing any passenger vehicle, as defined in Section 465 of the Vehicle Code, or any commercial vehicle, as defined in Section 260 of the Vehicle Code, with an unladen weight of 6,000 pounds or less.

(b) (1) On and after January 1, 1990, every service station in this state located within 660 feet of an accessible right-of-way of any interstate or primary highway, as defined in Sections 5215 and 5220, shall provide, during business hours, public restrooms for use by its customers. Service stations shall not charge customers separately for the use of restroom facilities.

(2) The public restroom shall not be temporary or portable but shall be permanent and shall include separate facilities for men and women, each with toilets and sinks suitable for use by persons handicapped in accordance with Section 19955.5 of the Health and Safety Code and Title 24 of the California Code of Regulations and shall be maintained in a clean and sanitary manner.

(3) This subdivision does not apply to service stations which are operational prior to January 1, 1990, and which would be obligated to construct permanent restroom facilities to comply with this subdivision.

(4) For the purposes of this subdivision, "customer" means a person who purchases any product available for sale on the premises

of the service station, including items not related to the repairing or servicing of a motor vehicle.

(c) On and after July 1, 1991, every service station in this state shall display, at a conspicuous place on, at, or near the dispensing apparatus or at or near the point of sale, at least one clearly visible sign showing a list of applicable state and federal fuel taxes per gallon of motor vehicle fuel sold from the dispensing apparatus.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 556

An act to amend Sections 45246 and 88066 of the Education Code, relating to personnel commissions.

[Approved by Governor August 24, 1990. Filed with Secretary of State August 27, 1990.]

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

SECTION 1. Section 45246 of the Education Code is amended to read:

45246. (a) Within 30 days after adoption of the system the governing board shall publicly announce its intended appointee or appointees, as appropriate, and the appointee or appointees, as appropriate, nominated by its classified employees. As soon after their appointment as practicable but within 30 days, the appointed members shall announce their intended appointee for the third or fifth member, as appropriate. They may consider the recommendations of the governing board, the classified employees, or other concerned citizens. If these members do not announce their intended appointee within the 30-day period, the Executive Officer of the State Personnel Board shall make the appointment.

"Adoption of the system" means, in the case of Section 45221, the day on which a successful election is certified to the governing board or, in the case of Section 45224, the day the governing board approves a motion, order, or resolution to adopt the system regardless of the date specified for operational commencement of the system.

(b) Where a system is already in existence and a vacancy will exist on December 1, by not later than September 30:

(1) The governing board shall publicly announce the name of the person it intends to appoint or reappoint, if the vacancy is its appointee.

(2) The appointee or appointees, as appropriate, of the governing board and the appointee or appointees of the classified employees shall publicly announce the name of the person they intend to appoint, if the vacancy is their appointee.

If the governing board and the classified employees of the district are unable to agree upon a nomination by September 30, the Executive Officer of the State Personnel Board shall make the appointment within 30 days.

(c) Where a system is already in existence and a vacancy in a position nominated by the classified employees will occur, the classified employees shall submit the name of its nominee to the governing board at least 30 days prior to the date on which the vacancy will occur and the governing board shall appoint that nominee to be effective on the date on which the vacancy would occur.

(d) At a board meeting to be held after 30 and within 45 days of the dates specified in subdivision (a) and paragraph (1) of subdivision (b), as the case may be, the governing board in open hearing shall provide the public and employees and employee organizations the opportunity to express their views on the qualifications of those persons recommended by the governing board for appointment.

The board at the time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

In the case of the nominees of the classified employees, the board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the board then shall appoint the new nominee.

(e) In the event a vacancy exists because of a failure of the classified employees to agree on a nominee, the board may make an emergency appointment as authorized in subdivision (b) of Section 45248. If there is no personnel director, the board nevertheless may make an emergency interim appointment under this subdivision.

(f) At the next regularly scheduled personnel commission meeting to be held after 30 days from adoption of the system, as specified in subdivision (a), or at the next regularly scheduled personnel commission meeting to be held after 30 days from the day the intended appointee is announced, as specified in paragraph (2) of subdivision (b), as the case may be, the appointee or appointees of the governing board and the appointee or appointees nominated by the classified employees shall, in an open hearing, provide the public and employees and employee organizations the opportunity to express their views on the qualifications of each candidate recommended for the vacancy. Each candidate shall be invited to

this meeting.

The appointee or appointees of the governing board and the appointee or appointees nominated by the classified employees may make their appointment or may make a substitute appointment or recommendation without further notification or public hearing.

SEC. 2. Section 88066 of the Education Code is amended to read:

88066. (a) Within 30 days after adoption of the system the governing board shall publicly announce its intended appointee, and the appointee or appointees, as appropriate, nominated by its classified employees. As soon after their appointment as practicable but within 30 days, the appointed members shall announce their intended appointee for the third or fifth member, as appropriate. They may consider the recommendations of the governing board, the classified employees, or other concerned citizens. If these members do not announce their intended appointee within the 30-day period, the Executive Officer of the State Personnel Board shall make the appointment.

"Adoption of the system" means, in the case of Section 88051, the day on which a successful election is certified to the governing board or, in the case of Section 88054, the day the governing board approves a motion, order, or resolution to adopt the system regardless of the date specified for operational commencement of the system.

(b) Where a system is already in existence and a vacancy will exist on December 1, by not later than September 30:

(1) The governing board shall publicly announce the name of the person it intends to appoint or reappoint, if the vacancy is its appointee.

(2) The appointee or appointees, as appropriate, of the governing board and the appointee or appointees of the classified employees shall publicly announce the name of the person they intend to appoint, if the vacancy is their appointee.

If the governing board and the classified employees of the district are unable to agree upon a nomination by September 30, the Executive Officer of the State Personnel Board shall make the appointment within 30 days.

(c) Where a system is already in existence and a vacancy in a position nominated by the classified employees will occur, the classified employees shall submit the name of its nominee to the governing board at least 30 days prior to the date on which the vacancy will occur and the governing board shall appoint that nominee to be effective on the date on which the vacancy would occur.

(d) At a board meeting to be held after 30 and within 45 days of the dates specified in subdivision (a) and paragraph (1) of subdivision (b), as the case may be, the governing board in open hearing shall provide the public and employees and employee organizations the opportunity to express their views on the qualifications of those persons recommended by the governing board for appointment.

The board at the time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

In the case of the nominees of the classified employees, the board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the board shall then appoint the new nominee.

(e) In the event a vacancy exists because of a failure of the classified employees to agree on a nominee, the board may make an emergency appointment as authorized in subdivision (b) of Section 88065. If there is no personnel director, the board may nevertheless make an emergency interim appointment under this subdivision.

(f) At the next regularly scheduled personnel commission meeting to be held after 30 days from adoption of the system, as specified in subdivision (a), or at the next regularly scheduled personnel commission meeting to be held after 30 days from the day the intended appointee is announced, as specified in paragraph (2) of subdivision (b), as the case may be, the appointee or appointees of the governing board and the appointee or appointees nominated by the classified employees shall, in an open hearing, provide the public and employees and employee organizations the opportunity to express their views on the qualifications of each candidate recommended for the vacancy. Each candidate shall be invited to this meeting.

The appointee or appointees of the governing board and the appointee or appointees nominated by the classified employees may make their appointment or may make a substitute appointment or recommendation without further notification or public hearing.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 557

An act to amend Sections 25199.10 and 25199.11 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990]

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

SECTION 1. Section 25199.10 of the Health and Safety Code is amended to read:

25199.10. (a) If an appeal is filed pursuant to subdivision (b), (d), or (e) of Section 25199.9, or paragraph (3) of subdivision (c) of Section 25199.9, the Governor or the Governor's designee shall determine within five working days whether the proponent has obtained all permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies, and which were obtainable when the appeal was filed. If, because the application for the appeal is incomplete, the Governor or the Governor's designee is unable to determine, within five working days, whether or not the appeal board should be convened, the Governor or the Governor's designee shall return the application for appeal to the proponent or interested party who filed the appeal. The proponent or interested party shall resubmit the completed application for an appeal within 20 calendar days after receiving the returned appeal and if the proponent or interested party fails to do so, the Governor or the Governor's designee shall not reconsider whether to convene an appeal board.

(b) If the Governor or the Governor's designee determines, pursuant to subdivision (a), that the proponent has obtained all permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies, or if an appeal is filed pursuant to paragraph (1) of subdivision (c) of Section 25199.9, the Governor or the Governor's designee shall convene an appeal board within 30 days after making that determination or receiving that appeal, by requesting the League of California Cities and the County Supervisors Association of California to each nominate persons for appointment to an appeal board, as specified in paragraphs (6) and (7) of subdivision (c).

(c) An appeal board shall consist of seven members, five of whom shall be the members listed in paragraphs (1) to (5), inclusive, and two of whom shall be separately appointed for each particular appeal, as provided in paragraphs (6) and (7). An appeal board shall consist of the following members:

(1) The State Director of Health Services.

(2) The Chairperson of the State Air Resources Board.

(3) The Chairperson of the State Water Resources Control Board.

(4) A member of a county board of supervisors appointed by the Senate Committee on Rules who shall be selected from the persons nominated by the County Supervisors Association of California. The appointment shall be for a period of four years, but shall terminate earlier if the appointee does not continue in office as a member of a board of supervisors.

(5) A member of a city council appointed by the Speaker of the Assembly who shall be selected from the persons nominated by the League of California Cities. The appointment shall be for a period of four years, but shall terminate earlier if the appointee does not continue in office as a member of a city council.

(6) A member of a county board of supervisors appointed by the Speaker of the Assembly who shall be selected from the persons nominated by the County Supervisors Association of California. The member shall be from the county in which the specified hazardous waste facility project which is the subject of the appeal is located. However, if the member appointed pursuant to paragraph (4) is from the county in which the specified hazardous waste facility project is located, the member appointed pursuant to this paragraph shall not be from that same county. If the appointee appointed pursuant to this paragraph does not continue in office as a member of a board of supervisors for the duration of the appeal for which the appointment was made, the appointment shall terminate and a new appointment shall be made.

(7) A member of a city council appointed by the Senate Committee on Rules who shall be selected from the persons nominated by the League of California Cities. The member shall be from the city in which the specified hazardous waste facility project which is the subject of the appeal is located, or from the city which the Governor or the Governor's designee determines to be the most directly affected by the project if the project is not located in a city. However, if the member appointed under paragraph (5) is from a city in the county in which the specified hazardous waste facility project is located, the member appointed under this paragraph shall be from a city in a different county. If the appointee appointed pursuant to this paragraph does not continue in office as a member of a city council for the duration of the appeal for which the appointment was made, the appointment shall terminate and a new appointment shall be made.

(d) The appeal board shall issue the final decision upon an appeal in writing and the members of the appeal board shall sign the decision.

(e) The State Director of Health Services, the Chairperson of the State Air Resources Board, and the Chairperson of the State Water Resources Control Board may designate an alternate to attend any meetings or hearings of an appeal board in that person's place, except that the alternate may not vote on a final decision on an appeal or sign the written decision in place of the person for whom the person serves as alternate.

(f) The Governor or the Governor's designee shall designate staff to serve the appeal board.

SEC. 2. Section 25199.11 of the Health and Safety Code is amended to read:

25199.11. (a) An appeal board convened by the Governor or the Governor's designee to hear an appeal pursuant to subdivision (b) or (c) of Section 25199.9 shall follow the procedures and requirements specified in this section.

(b) Within 30 days after the Governor or the Governor's designee determines that an appeal board should be convened pursuant to subdivision (b) of Section 25199.9, or paragraph (3) of subdivision (c) of Section 25199.9, the appeal board shall be convened. Within 15 days after the appeal board has been convened, a public hearing shall be held in the city or county where the specified hazardous waste facility project is located. At the hearing, the proponent, and the local agency whose land use decision is being appealed, shall present arguments and evidence to the appeal board concerning whether or not the appeal should be accepted.

(c) Within 15 days after the date of the public hearing specified in subdivision (b), the appeal board shall decide whether or not to accept the appeal. The appeal board may accept an appeal only by an affirmative vote of four members of the appeal board. The appeal board shall make its decision based upon the arguments and evidence presented at the hearing. The appeal board's decision shall be in writing, shall be signed by the members who voted in favor of the decision, and shall state the reasons for accepting or rejecting the appeal. The appeal board may accept the appeal if the arguments and evidence presented at the hearing tend to show that, when the local agency's reasons for disapproving the application for a land use decision are weighed against statewide, regional, or county hazardous waste management policies, goals, and objectives, there are compelling reasons to review the disapproval of the application.

(d) If the appeal board accepts the appeal, within 30 days after this acceptance, the appeal board shall conduct an informal workshop on the subject of the appeal in the city or county where the specified hazardous waste facility project is proposed to be located. Within 45 days following acceptance of the appeal, the appeal board shall also hold a public hearing in the community to hear the arguments and evidence for the purpose of making a tentative decision on the appeal. In issuing a decision pursuant to the hearing, the appeal board shall adopt a rebuttable presumption that the land use decision of the local agency disapproving the application is supported by substantial reasons and that, when these reasons are weighed against statewide, regional, or county hazardous waste management policies, goals, and objectives, the reasons for reversing the local agency's action are not compelling. In all matters related to the appeal, including, but not limited to, matters related to the findings required by subdivision (f), the burden of proof shall be with the proponent to rebut this presumption and to establish that

there are compelling reasons to reverse the local agency's land use decision.

(e) Within 45 days after the public hearing, the appeal board shall, by an affirmative vote of at least four members, issue a written decision on the appeal. If the appeal board agrees with the land use decision of the local agency, the appeal board shall state its reasons for this position. If the appeal board agrees with the proponent's appeal, the appeal board shall issue a tentative decision stating that the local agency's land use decision should be reversed.

(f) The appeal board shall not reverse the local agency's land use decision unless the appeal board makes all of the following findings:

(1) That the significant environmental impacts of the specified hazardous waste facility project will be adequately mitigated.

(2) That the specified hazardous waste facility project was consistent with the applicable city or county general plan when the local agency accepted, as complete, the proponent's application for a land use decision. For the purpose of this finding, a project is consistent with the applicable city or county general plan if the appeal board makes one of the following determinations:

(A) The appeal board may determine that a specified hazardous waste facility project that is not a land disposal facility project is consistent with the general plan if the appeal board makes all of the following findings:

(i) The project is proposed to be located in an area zoned and designated in the applicable general plan for industrial use and substantially developed with other industrial facilities which produce, treat, or dispose of hazardous waste onsite and which are served by the same transportation routes as the proposed facility. In addition, the land uses authorized in the applicable general plan and zoning ordinances in the vicinity of the project are compatible with the project.

(ii) There is no clear and express provision in the general plan which states that such a specified hazardous waste facility project is inconsistent with the general plan, or, if there is such a provision, the provision was adopted after January 1, 1983.

(iii) The specified hazardous waste project is consistent, as determined by the appeal board, with the general plan.

(B) The appeal board may determine that a specified hazardous waste facility project is consistent with the applicable city or county general plan if the project is a land disposal facility project, and if all of the following apply:

(i) There is no clear and express provision in the general plan that states that such a specified hazardous waste facility project is inconsistent with the general plan, or, if there is such a provision, the provision was adopted after January 1, 1983.

(ii) The project is consistent, as determined by the appeal board, with the general plan.

(3) That the specified hazardous waste facility is consistent with the county hazardous waste management plan, if such a plan has

been adopted by the county, and approved by the department, pursuant to Article 3.5 (commencing with Section 25135).

(4) That alternative locations for the specified hazardous waste facility project, as identified in the environmental impact report for the project and in the county hazardous waste management plan, if one has been approved by the department, have been adequately considered by the appeal board in determining the appropriateness of the location chosen for the project.

(5) That reversing the local agency's land use decision is consistent with statewide, regional, and county hazardous waste management policies, goals, and objectives. In making this finding, the appeal board shall consider all of the following factors:

(A) Whether or not a need for the specified hazardous waste facility project has been demonstrated.

(B) Whether or not the specified hazardous waste facility project is of a type, and in a location, that conforms to statewide, regional, or local hazardous waste management policies.

(C) Whether or not the specified hazardous waste facility will be operated using the best feasible hazardous waste management technologies.

(g) The local agency whose land use decision is being appealed may reconsider the action and approve the application for the land use decision, consistent with the appeal board's tentative decision, within 60 days after the appeal board issues its tentative decision. If the local agency does not approve the application for the land use decision consistent with the tentative decision within 60 days after the decision is issued, the appeal board shall, by an affirmative vote of at least four members, issue a final decision. If the final decision reverses the local agency's land use decision, the appeal board shall then require the local agency to approve the application for the land use decision and if the local agency does not approve the application for the land use decision, the Attorney General shall bring an action to require the local agency to approve the application for the land use decision for the specified hazardous waste facility project.

CHAPTER 558

An act to add and repeal Section 6010.65 of the Revenue and Taxation Code, relating to sales and use taxes.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990]

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

SECTION 1. Section 6010.65 is added to the Revenue and Taxation Code, to read:

6010.65. (a) "Sale" and "purchase," for purposes of this part, do

not include any transfer of title to, nor any lease of, tangible personal property pursuant to an acquisition sale and leaseback. An acquisition sale and leaseback is a sale by a person and leaseback to that person of tangible personal property where both of the following conditions are satisfied:

(1) That person has paid sales tax reimbursement or use tax with respect to that person's purchase of the property.

(2) The acquisition sale and leaseback is consummated within 90 days of that person's first functional use of the property.

(b) "Sale" and "purchase" include, for purposes of this part, the transfer of title to a lessee upon termination of an acquisition sale and leaseback.

(c) This section shall apply to acquisition sale and leaseback arrangements executed on or after the operative date of this section and before January 1, 1995.

(d) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that 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 Section 2 of this act.

CHAPTER 559

An act to add Section 19445 to the Business and Professions Code, relating to horseracing.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990]

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

SECTION 1. Section 19445 is added to the Business and Professions Code, to read:

19445. The board is the designated state entity responsible for negotiating with an Indian tribe pursuant to the Indian Gaming Regulatory Act (25 U.S.C. SEC. 2701 et. seq.), for the purpose of entering into a Tribal-State compact governing the conduct of horseracing activities on the Indian lands of the tribe.

CHAPTER 560

An act to amend Sections 22666, 23910.5, 24000, 24601, 24612, 24612.1, 24612.2, and 24612.5 of, to add Sections 22150.7, 22709.1, 23002.1, and 24600.1 to, and to repeal Sections 22230 and 22230.1 of, the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor August 24, 1990. Filed with Secretary of State August 27, 1990]

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

SECTION 1. Section 22150.7 is added to the Education Code, to read:

22150.7. "School year" means the fiscal year or the academic year.

SEC. 2. Section 22230 of the Education Code is repealed.

SEC. 3. Section 22230.1 of the Education Code is repealed.

SEC. 4. Section 22666 of the Education Code is amended to read:

22666. It is the intent of the Legislature to abolish any remaining application of the Terminable Interest Doctrine in California relating to the division of public retirement benefits of a member in the event of dissolution of marriage or death if the division is made under this chapter.

SEC. 5. Section 22709.1 is added to the Education Code, to read:

22709.1. In any school district which is conducting a year-round school operation or a continuous school program, service shall be credited to the school year in which the service began.

SEC. 6. Section 23002.1 is added to the Education Code, to read:

23002.1. Member and employer contributions from school districts conducting a year-round school operation or a continuous school program shall be reported as part of the school year in which the service began.

SEC. 7. Section 23910.5 of the Education Code is amended to read:

23910.5. A disability allowance shall become effective upon any date designated by the member, provided:

(a) An application for disability allowance is filed on a form provided by the system, which is executed no earlier than the day following the last day on which service is performed, and

(b) The effective date is later than the last day of service for which salary is payable to the member, and

(c) The effective date is no earlier than the first day of the month in which the application is received by the system in Sacramento, or

(d) The effective date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

Time during which the member is on compensated leave or

absence for illness shall not be deemed service for purposes of subdivision (a).

SEC. 8. Section 24000 of the Education Code is amended to read:

24000. Upon retirement for service which became effective after June 30, 1972, a member shall receive a retirement allowance which shall consist of both of the following:

(a) An annual allowance payable in monthly installments, upon retirement at normal retirement age or over, equal to 2 percent of the final compensation for each year of credited service. If the retirement of a member is effective at less than normal retirement age and between early retirement age and normal retirement age this allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month which will elapse until the member will attain normal retirement age.

(b) An annuity which shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of his or her account at the time of his or her retirement.

Members with 30 years of credited service may retire at age 50 or older and receive an annual allowance equal to 2 percent of final compensation for each year of credited service. If the member has attained age 50, but has not attained early retirement age, the allowance shall be reduced by one-quarter of 1 percent for each full month or fraction of a month which will elapse until the member will attain early retirement age and one-half of 1 percent for each full month, or fraction between early retirement age and normal retirement age.

In computing the above amounts, the age of the member at the last day of the month in which the retirement allowance begins to accrue or such later date as provided in Section 23900 shall be used.

SEC. 9. Section 24601 of the Education Code is amended to read:

24601. Upon receipt of proof satisfactory to the board, that a warrant drawn in payment of a retirement allowance or in payment of any other account due from the system, has been lost or that a payment transmitted electronically cannot be credited to an account, the Controller upon the request of the board shall issue a replacement warrant in payment of the same amount, without requiring a bond from the payee, and any loss incurred in connection therewith shall be charged against the fund from which the payment was derived.

SEC. 10. Section 24600.1 is added to the Education Code, to read:

24600.1. (a) Upon the receipt of a request from any retirant, disabilitant, or beneficiary, the board may transmit payments to a bank, savings and loan association, or credit union for deposit in the retirant's, disabilitant's, or beneficiary's account by electronic fund transfer or by mail. The transmittal of the payment shall fully discharge the board and the system from any claim resulting from actions taken under this section.

(b) The board shall send a copy of the benefit payment information to any retirant, disabilitant, or beneficiary who has

payments transmitted directly by electronic fund transfer or by mail to a financial institution.

SEC. 11. Section 24612 of the Education Code is amended to read:

24612. The initial payment to a retirant shall be issued within 45 days of either the effective date of retirement or receipt by the system of a completed application for retirement, whichever is later. The initial payment to an option beneficiary shall be issued within 45 days following receipt by the system of a completed application for death benefits and a certified death certificate. Monthly payments shall continue thereafter. Payments may be based on a good faith estimated amount pending receipt by the system of all necessary employment information.

The retirant or option beneficiary shall be placed on the final roll and issued a retroactive payment, if one is due, within 45 days of receipt by the system of all necessary information.

SEC. 12. Section 24612.1 of the Education Code is amended to read:

24612.1. The initial payment to a disabilitant shall be paid within 45 days following the date the disability is approved. Monthly payments shall continue thereafter. Initial payments may be based on a good faith estimated amount pending receipt by the system of all necessary employment, dependent, and other public benefit information.

The disabilitant shall be placed on the final roll and issued a retroactive payment, if one is due, within 45 days of receipt by the system of all necessary information.

SEC. 13. Section 24612.2 of the Education Code is amended to read:

24612.2. The death benefit provided by Section 23800 shall be paid to the beneficiary or estate within 45 days of receipt by the system of all necessary information.

All other lump-sum payments provided by Sections 23800, 23804, and 23807 shall be paid to the beneficiary within 45 days of receipt by the system of all the necessary information.

Monthly family allowance payments provided by Section 23804 shall commence within 45 days of receipt by the system of all necessary information.

SEC. 14. Section 24612.5 of the Education Code is amended to read:

24612.5. The system shall pay the retirant, option beneficiary, disabilitant, beneficiary, or estate interest for delays in excess of the allowable days specified in Sections 24612 to 24612.2, inclusive. The interest rate for late payments shall be the regular interest rate. Interest payments shall be deemed to be interest earned in the calendar year in which paid. All interest payments under this section shall be paid in addition to any credited interest that is paid.

CHAPTER 561

An act to amend Sections 708, 710, 716, and 736 of, and to add Section 740 to, the Harbors and Navigation Code, relating to vessels.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990]

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

SECTION 1. Section 708 of the Harbors and Navigation Code is amended to read:

708. (a) No person shall engage in the business of, act in the capacity of, advertise as, or assume to act as a broker or salesperson within this state without first obtaining a license under this article to do so.

(b) Only the person to whom a license is issued may perform or offer to perform any act subject to this article.

(c) No fictitious name shall be used by a broker in the conduct of any business for which a license is required under this article, unless a license bearing that fictitious name has been issued to the broker.

(d) The department shall not issue a license under a fictitious business name which is the same as or similar to the fictitious business name on a license previously issued and in effect.

SEC. 2. Section 710 of the Harbors and Navigation Code is amended to read:

710. The definitions of "broker" and "salesperson," as set forth in Section 701, do not include the following:

(a) A person who directly performs any act subject to this article with reference to a yacht owned by that person or, in the case of a corporation which, through its regular officers receiving no special compensation therefor, performs any act subject to this article with reference to the corporation's yacht.

(b) Services rendered by an attorney at law in performing duties as an attorney at law.

(c) Any receiver, trustee in bankruptcy, or other person acting under the order of any court.

(d) Any transaction involving the sale of property subject to foreclosure of a security interest in a yacht which is conducted only by the holder of the security interest.

(e) Any transaction involving the sale of a yacht in excess of 300 gross tons or tenders thereof sold at the same time.

(f) Any transaction involving the sale of a new yacht or ship.

SEC. 3. Section 716 of the Harbors and Navigation Code is amended to read:

716. (a) No broker shall engage in any transaction for which a license is required under this article without first obtaining a signed written authorization to do so from the broker's principal. An authorization to sell shall contain a description of the vessel,

including the undocumented vessel's registration number or the name, official number, and home port if the vessel is documented with a federal agency. The written authorization shall also state the type of listing, the gross listing price, the agreed upon commission or other compensation of the broker, and any repairs authorized to be made.

(b) An offer to purchase shall contain the description of the yacht, including the undocumented vessel's registration number or the name, official number, and home port if the vessel is documented with a federal agency. The written authorization to purchase shall also state the amount of deposit, terms of the sale, and any contingencies or conditions under which a deposit shall not be returned if the sale is not completed.

(c) When a broker prepares, or there is prepared on behalf of a broker, a written authorization to sell or purchase, the broker shall deliver a copy of the written authorization to the person executing it. Receipt of the copy shall be made on the face of the original written authorization.

SEC. 4. Section 736 of the Harbors and Navigation Code is amended to read:

736. The department shall charge and collect the fees prescribed by this article in accordance with the following schedule:

(a) Two hundred dollars ($200) for each original broker's license.

(b) Seventy-five dollars ($75) per year for the renewal of an original broker's license.

(c) One hundred dollars ($100) for each original salesperson's license.

(d) Fifty dollars ($50) per year for the renewal of an original salesperson's license.

(e) Twenty-five dollars ($25) for a salesperson's temporary license.

(f) Twenty-five dollars ($25) for each license obtained by a broker for a branch office and for each renewal thereof.

(g) Ten dollars ($10) for each transfer of a salesperson's license for each change of employment.

(h) Ten dollars ($10) for each duplicate license.

(i) Ten dollars ($10) for each substitution of a name in the license of a corporation or a partnership.

(j) Ten dollars ($10) for the granting of each certificate of convenience under Section 727.

(k) Twenty-five dollars ($25) for each examination.

(*l*) A criminal records investigation fee, collected for both a salesperson's and broker's license, in an amount determined by the Department of Justice, not to exceed the amount needed to reimburse the department for conducting the criminal records investigation.

SEC. 5. Section 740 is added to the Harbors and Navigation Code, to read:

740. Any action taken in the enforcement of this article shall be

commenced within three years of the department's discovery of the facts constituting the grounds for that action.

CHAPTER 562

An act to add Section 1861.135 to, the Insurance Code, relating to insurance.

[Approved by Governor August 24, 1990 Filed with Secretary of State August 27, 1990.]

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

SECTION 1. Section 1861.135 is added to the Insurance Code, to read:

1861.135. (a) Notwithstanding Section 1861.13, surety insurance shall not be subject to Sections 1861.01 and 1861.05; however, any rate, rating plan or rating system for surety insurance shall be filed with the commissioner before it may be used in this state, and that rate, rating plan, or rating system may be used immediately upon filing with the commissioner.

(b) The rates for surety insurance shall not be excessive, inadequate, unfairly discriminatory, or otherwise in violation of this chapter, except Sections 1861.01 and 1861.05.

SEC. 2. The Legislature finds and declares that this act furthers the purpose of Proposition 103 by clarifying the applicability of the proposition to surety insurance.

SEC. 3. This act applies to rates, rating plans and rating systems for surety insurance on and after November 8, 1988. This act shall not relieve any insurer of the obligations set forth in Section 12979 of the Insurance Code arising prior to January 1, 1991.

CHAPTER 563

An act to amend Section 21675 of the Public Utilities Code, relating to airports.

[Approved by Governor August 27, 1990. Filed with Secretary of State August 28, 1990.]

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

SECTION 1. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) Each commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction

of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the planning area. The comprehensive land use plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

(b) The commission may include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all of the purposes specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

(d) The commission shall submit to the Division of Aeronautics of the department one copy of the plan and each amendment to the plan.

(e) If a comprehensive land use plan does not include the matters required to be included pursuant to this article, the Division of Aeronautics of the department shall notify the commission responsible for the plan.

CHAPTER 564

An act to add Section 2889.5 to the Public Utilities Code, relating to public utilities.

[Approved by Governor August 27, 1990 Filed with Secretary of State August 28, 1990.]

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

SECTION 1. Section 2889.5 is added to the Public Utilities Code, to read:

2889.5. No interexchange telephone corporation, or any person, firm, or corporation representing an interexchange telephone corporation, shall authorize a local exchange telephone company to make any change in a residential telephone subscriber's presubscribed long-distance carrier until all of the following steps have been completed:

(a) If a subscriber is solicited by telephone or by some other method, other than by contact in person, by an interexchange carrier or its independent representative, other than an employee of the interexchange carrier, the carrier or its representative shall do all of the following:

(1) Thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) Specifically establish whether the subscriber intends to make any change in his or her long-distance carrier and explain any charges associated with that change.

(3) Where a representative is acting on behalf of the corporation, a followup call by the interexchange carrier, or a representative of the carrier who does not receive a commission for that sale, shall be made to verify the subscriber's intent to change his or her long-distance carrier.

(4) Mail to the subscriber an information package seeking confirmation of his or her change in the long-distance carrier and describing the new service, as soon as possible. The package shall include a confirmation form to be returned to the interexchange carrier or some other reasonable attempt shall be made to obtain written authorization of the subscriber's intent to change long-distance carriers.

(b) If the subscriber seeks to make a change in his or her long-distance carrier in person, the interexchange telephone corporation or its representative, which shall not include the local exchange company, shall do all of the following:

(1) Thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) Specifically establish whether the subscriber intends to make any change in his or her long-distance carrier, and explain any charges associated with that change.

(3) Obtain the subscriber's signature on a document which fully explains the nature and extent of the action. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the interexchange carrier.

(4) Furnish the subscriber with a copy of the signed document.

(c) If a subscriber notifies the interexchange telephone corporation or the local exchange corporation within 90 days that he or she does not wish to change long-distance carriers, the subscriber shall be switched back to his or her former carrier at the expense of the interexchange carrier that made the change.

CHAPTER 565

An act to amend Section 1091 of the Government Code, relating to public officers and employees.

[Approved by Governor August 29, 1990. Filed with Secretary of State August 29, 1990.]

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

SECTION 1. Section 1091 of the Government Code is amended to read:

1091. (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract and if the fact of that interest is disclosed to the body of the board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

(b) As used in this article, "remote interest" means any of the following:

(1) That of an officer or employee of a nonprofit corporation, except as provided in paragraph (8) of subdivision (a) of Section 1091.5.

(2) That of an employee or agent of the contracting party, if that contracting party has 10 or more other employees and if the officer was an employee or agent of that contracting party for at least three years prior to the officer initially accepting his or her office.

For purposes of this paragraph, time of employment with the contracting party by the officer shall be counted in computing the three-year period specified in this paragraph even though the contracting party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by the officer. Time of employment in that case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the contracting party is the same or substantially similar to that which existed before the transfer or change in organization. For purposes of this paragraph, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of the contracting party.

(3) That of an employee or agent of the contracting party, if all of the following conditions are met:

(A) The agency of which the person is an officer is a local public agency located in a county with a population of less than 4,000,000.

(B) The contract is competitively bid and is not for personal services.

(C) The employee or agent is not in a primary management capacity with the contracting party, is not an officer or director of the contracting party, and holds no ownership interest in the contracting party.

(D) The contracting party has 10 or more other employees.

(E) The employee or agent did not directly participate in formulating the bid of the contracting party.

(F) The contracting party is the lowest responsible bidder.

(4) That of a parent, spouse, sibling, or child of the contracting party.

(5) That of a landlord or tenant of the contracting party.

(6) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract.

(7) That of a member of a nonprofit corporation formed under the Food and Agricultural Code or a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products or the supplying of water.

(8) That of a supplier of goods or services when those goods or services have been supplied to the contracting party by the officer for at least five years prior to his or her election or appointment to office.

(9) That of a person subject to the provisions of Section 1090 in any contract or agreement entered into pursuant to the provisions of the California Land Conservation Act of 1965.

(10) That of an officer, director, or employee of a bank, bank holding company, or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor.

(11) That of an engineer, geologist, or architect employed by a consulting engineering or architectural firm. This paragraph applies only to an employee of a consulting firm who does not serve in a primary management capacity, and does not apply to an officer or director of a consulting firm.

(12) That of an elected officer otherwise subject to Section 1090, in any housing assistance payment contract entered into pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) as amended, provided that the housing assistance payment contract was in existence before Section 1090 became applicable to the officer and will be renewed or extended only as to the existing tenant, or, in a jurisdiction in which the rental vacancy rate is less than 5 percent, as to new tenants in a unit previously under a Section 8 contract. This section applies to any person who became a public official on or after November 1, 1986.

(c) This section is not applicable to any officer interested in a

contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.

(d) The willful failure of an officer to disclose the fact of his or her interest in a contract pursuant to this section is punishable as provided in Section 1097. That violation does not void the contract unless the contracting party had knowledge of the fact of the remote interest of the officer at the time the contract was executed.

CHAPTER 566

An act to amend Sections 369 and 739 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor August 29, 1990 Filed with Secretary of State August 29, 1990]

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

SECTION 1. Section 369 of the Welfare and Institutions Code is amended to read:

369. (a) Whenever any person is taken into temporary custody under Article 7 (commencing with Section 305) and is in need of medical, surgical, dental, or other remedial care, the probation officer may, upon the recommendation of the attending physician and surgeon or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of the medical, surgical, dental, or other remedial care. The probation officer shall notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before that care is provided, and if the parent, guardian, or person standing in loco parentis objects, such care shall be given only upon order of the court in the exercise of its discretion.

(b) Whenever it appears to the juvenile court that any person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize the remedial care or treatment for that person, the court, upon the written recommendation of a licensed physician and surgeon or, if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or person standing in loco parentis, if any, may make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for that person.

(c) Whenever a dependent child of the juvenile court is placed by order of the court within the care and custody or under the supervision of the probation officer of the county in which the dependent child resides and it appears to the court that there is no

parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the dependent child, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the probation officer may authorize the medical, surgical, dental, or other remedial care for the dependent child, by licensed practitioners, as may from time to time appear necessary.

(d) Whenever it appears that a minor otherwise within subdivision (a), (b), or (c) requires immediate emergency medical, surgical, or other remedial care in an emergency situation, that care may be provided by a licensed physician and surgeon or, if the minor needs dental care in an emergency situation, by a licensed dentist, without a court order and upon authorization of a probation officer. The probation officer shall make reasonable efforts to obtain the consent of, or to notify, the parent, guardian, or person standing in loco parentis prior to authorizing emergency medical, surgical, dental, or other remedial care. "Emergency situation," for the purposes of this subdivision means a minor requires immediate treatment for the alleviation of severe pain or an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease which if not immediately diagnosed and treated, would lead to serious disability or death.

(e) In any case in which the court orders the performance of any medical, surgical, dental, or other remedial care pursuant to this section, the court may also make an order authorizing the release of information concerning that care to probation officers, parole officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the minor under order, commitment, or approval of the court.

(f) Nothing in this section shall be construed as limiting the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the minor by order of the court, in providing any medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state.

(g) The parent of any person described in this section may authorize the performance of medical, surgical, dental, or other remedial care provided for in this section notwithstanding his or her age or marital status. In nonemergency situations the parent authorizing the care shall notify the other parent prior to the administration of such care.

SEC. 2. Section 739 of the Welfare and Institutions Code is amended to read:

739. (a) Whenever any person is taken into temporary custody under Article 15 (commencing with Section 625) and is in need of medical, surgical, dental, or other remedial care, the probation officer may, upon the recommendation of the attending physician and surgeon or, if the person needs dental care and there is an

attending dentist, the attending dentist, authorize the performance of that medical, surgical, dental, or other remedial care. The probation officer shall notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before the care is provided, and if the parent, guardian, or person standing in loco parentis objects, such care shall be given only upon order of the court in the exercise of its discretion.

(b) Whenever it appears to the juvenile court that any person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize the remedial care or treatment for that person, the court, upon the written recommendation of a licensed physician and surgeon or, if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or person standing in loco parentis, if any, may make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for that person.

(c) Whenever a ward of the juvenile court is placed by order of the court within the care and custody or under the supervision of the probation officer of the county in which the ward resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the ward, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the probation officer may authorize the medical, surgical, dental, or other remedial care for the ward by licensed practitioners, as may from time to time appear necessary.

(d) Whenever it appears that a minor otherwise within subdivision (a), (b), or (c) requires immediate emergency medical, surgical, or other remedial care in an emergency situation, that care may be provided by a licensed physician and surgeon or, if the minor needs dental care in an emergency situation, by a licensed dentist, without a court order and upon authorization of a probation officer. The probation officer shall make reasonable efforts to obtain the consent of, or to notify, the parent, guardian, or person standing in loco parentis prior to authorizing emergency medical, surgical, dental, or other remedial care. "Emergency situation," for the purposes of this subdivision means a minor requires immediate treatment for the alleviation of severe pain or an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease which if not immediately diagnosed and treated, would lead to serious disability or death.

(e) In any case in which the court orders the performance of any medical, surgical, dental, or other remedial care pursuant to this section, the court may also make an order authorizing the release of information concerning that care to probation officers, parole

officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the minor under order, commitment, or approval of the court.

(f) Nothing in this section shall be construed as limiting the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the minor by order of the court, in providing any medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state.

(g) The parent of any person described in this section may authorize the performance of medical, surgical, dental, or other remedial care provided for in this section notwithstanding his or her age or marital status. In nonemergency situations the parent authorizing the care shall notify the other parent prior to the administration of such care.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 567

An act to amend Section 1108 of the Corporations Code, relating to corporations.

[Approved by Governor August 29, 1990 Filed with Secretary of State August 29, 1990]

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

SECTION 1. Section 1108 of the Corporations Code is amended to read:

1108. (a) The merger of any number of domestic corporations with any number of foreign corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect such a merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a domestic corporation, the merger proceedings with respect to that corporation and any domestic disappearing corporation shall conform to the provisions of

this chapter governing the merger of domestic corporations, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and of Section 407 and Chapters 12 (commencing with Section 1200) and 13 (commencing with Section 1300) (with respect to any domestic constituent corporations), the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a domestic corporation, the agreement and the officers' certificate of each domestic or foreign constituent corporation shall be filed as provided in Section 1103, or the certificate of ownership shall be filed as provided in Section 1110, and thereupon, subject to subdivision (c) of Section 110, the merger shall be effective as to each domestic constituent corporation; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall by virtue of the filing automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but, except as provided in subdivision (e), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations the documents described in any one of the following paragraphs:

(1) A copy of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original.

(2) An executed counterpart of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger.

(3) A copy of the agreement of merger with an officers' certificate of the surviving foreign corporation and of each constituent domestic corporation attached, which officers' certificates shall conform to the requirements of Section 1103.

(4) A certificate of ownership pursuant to Section 1110.

(e) If the date of the filing in this state pursuant to subdivision (d) is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of the domestic corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation or corporations as of the date of filing in this state. Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall automatically by the filing pursuant to subdivision (d) surrender its right to transact intrastate business as

of the date of filing in this state regardless of the time of effectiveness as to a domestic disappearing corporation.

(f) The provisions of the last two sentences of Section 1101 and Chapters 12 (commencing with Section 1200) and 13 (commencing with Section 1300) apply to the rights of the shareholders of any of the constituent corporations which are domestic corporations and of any domestic corporation which is a parent party of any foreign constituent corporation.

(g) A certificate of satisfaction of the Franchise Tax Board shall be filed when required by Section 1103 or 1110 or when required by Section 23334 of the Revenue and Taxation Code.

CHAPTER 568

An act to add Section 23208 to the Vehicle Code, relating to driving offenses.

[Approved by Governor August 29, 1990 Filed with Secretary of State August 29, 1990]

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

SECTION 1. Section 23208 is added to the Vehicle Code, to read:

23208. (a) Any person who drives a vehicle 30 or more miles per hour over the maximum, prima facie, or posted speed limit on a freeway, or 20 or more miles per hour over the maximum, prima facie, or posted speed limit on any other street or highway, and in a manner prohibited by Section 23103 during the commission of a violation of Section 23152 or 23153 shall, in addition to the punishment prescribed for that person upon conviction of a violation of Section 23152 or 23153, be punished by an additional and consecutive term of 60 days in the county jail.

(b) If the court grants probation or suspends the execution of sentence, it shall require as a condition of probation or suspension that the defendant serve 60 days in the county jail, in addition and consecutive to any other sentence prescribed by this chapter.

(c) On a first conviction under this section, the court shall order the driver to participate in, and successfully complete, an alcohol or drug education and counseling program, or both an alcohol and a drug education and counseling program. Except in unusual cases where the interests of justice would be served, a finding making this section applicable to a defendant shall not be stricken pursuant to Section 1385 of the Penal Code or any other provision of law. If the court decides not to impose the additional and consecutive term, it shall specify on the court record the reasons for that order.

(d) The additional term provided in this section shall not be imposed unless the facts of driving in a manner prohibited by Section 23103 and driving the vehicle 30 or more miles per hour over the

maximum, prima facie, or posted speed limit on a freeway, or 20 or more miles per hour over the maximum, prima facie, or posted speed limit on any other street or highway, are charged in the accusatory pleading and admitted or found to be true by the trier of fact. A finding of driving in that manner shall be based on facts in addition to the fact that the defendant was driving while under the influence of alcohol, any drug, or both, or with a specified percentage of alcohol in the blood.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 569

An act to repeal Article 5 (commencing with Section 11450) of Chapter 3 of Title 1 of Part 4 of the Penal Code, relating to crimes.

[Approved by Governor August 29, 1990 Filed with Secretary of State August 29, 1990.]

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

SECTION 1. The Legislature finds and declares that the criminal law is sometimes inappropriately used as a means to control human behavior which the majority of people find distasteful.

SEC. 2. Article 5 (commencing with Section 11450) of Chapter 3 of Title 1 of Part 4 of the Penal Code is repealed.

CHAPTER 570

An act to amend Section 1191 of the Penal Code, relating to crimes.

[Approved by Governor August 29, 1990. Filed with Secretary of State August 29, 1990.]

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

SECTION 1. Section 1191 of the Penal Code is amended to read:

1191. In the superior court, after a plea, finding, or verdict of guilty, or after a finding or verdict against the defendant on a plea

of a former conviction or acquittal, or once in jeopardy, the court shall appoint a time for pronouncing judgment, which shall be within 20 judicial days after the verdict, finding, or plea of guilty, during which time the court shall refer the case to the probation officer for a report if eligible for probation and pursuant to Section 1203. However, the court may extend the time not more than 10 days for the purpose of hearing or determining any motion for a new trial, or in arrest of judgment, and may further extend the time until the probation officer's report is received and until any proceedings for granting or denying probation have been disposed of. If, in the opinion of the court, there is a reasonable ground for believing a defendant insane, the court may extend the time for pronouncing sentence until the question of insanity has been heard and determined, as provided in this code. If the court orders defendant placed in a diagnostic facility pursuant to Section 1203.03, the time otherwise allowed by this section for pronouncing judgment is extended by a period equal to (1) the number of days which elapse between the date of the order and the date on which notice is received from the Director of Corrections advising whether or not the Department of Corrections will receive defendant in the facility, and (2) if the director notifies the court that it will receive the defendant, the time which elapses until his or her return to the court from the facility.

CHAPTER 571

An act to amend Section 25190 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor August 29, 1990 Filed with Secretary of State August 29, 1990.]

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

SECTION 1. Section 25190 of the Health and Safety Code is amended to read:

25190. Except as otherwise provided in Sections 25189.5, 25189.6, 25189.7, and 25191, any person who violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is, upon conviction, guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for up to six months in the county jail or by both that fine and imprisonment.

If the conviction is for a second or subsequent violation, the person shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 20, or 24 months. The court shall also impose upon the person a fine of not less than five thousand dollars ($5,000) or more than

twenty-five thousand dollars ($25,000).

CHAPTER 572

An act to amend Sections 66158, 66160, and 66165 of, and to add Section 66161 to, the Education Code, and to amend Section 3 of Chapter 1523 of the Statutes of 1985, relating to education.

[Approved by Governor August 30, 1990 Filed with Secretary of State August 30, 1990.]

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

SECTION 1. Section 66158 of the Education Code is amended to read:

66158. In determining state appropriations for the California State University, the University of California, or the Hastings College of the Law, the Governor and the Legislature shall consider the level of mandatory systemwide student fees fixed by the governing board of the institution, if all of the following conditions are met:

(a) The governing board of the institution has adopted and applied, or plans to apply, long-term student fee policies which prescribe a specific methodology for determination of mandatory systemwide fees.

(b) The methodology for the determination of mandatory systemwide fees includes all of the following:

(1) The requirement that annual changes in student fees be indexed to a three-year moving average of changes in the amount of state support provided per unit of statewide equivalent full-time enrollment.

(2) The base is either of the following:

(A) All state support budget appropriations for the support of the institution, excluding lottery revenues, appropriated revenues, and payments on revenue bonds, capital outlay, student financial aid, instruction, organized activities, research, public services, and teaching hospitals.

(B) All state support budget appropriations for the support of the institution, excluding lottery revenues, appropriated revenues, and payments on revenue bonds, capital outlay, and student financial aid.

(3) Any annual increases or decreases in a fee are limited to 10 percent of the amount of the fee fixed for the prior year, and any excess increase or decrease is carried forward and applied in subsequent years to adjust increases or decreases in the fee to the 10 percent limit.

(c) Funds provided by the Budget Act will be adjusted to reflect the difference between budgeted cost increases for salary and nonsalary expenditures and the revenues resulting from mandatory systemwide student fees determined according to the methodology

described by subdivision (b).

(d) The fee charged students to attend the Hastings College of the Law shall be identical to those charged students attending other schools of law in the University of California.

SEC. 2. Section 66160 of the Education Code is amended to read:

66160. In the event that state revenues and expenditures are substantially imbalanced due to factors unforeseen by the Governor and the Legislature, including, but not limited to, initiative measures, natural disasters, or sudden deviations from expected economic trends, the Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law, after consulting with the Governor, the Legislature, and appropriate student representatives, may increase or decrease mandatory systemwide student fees by an amount not to exceed 10 percent of the amount of the fee fixed for the prior year.

SEC. 3. Section 66161 is added to the Education Code, to read:

66161. In any fiscal year, the combined fee increases pursuant to paragraph (3) of subdivision (b) of Section 66158 and Section 66160 shall not exceed 10 percent of the fee level in the prior fiscal year.

SEC. 4. Section 3 of Chapter 1523 of the Statutes of 1985 is amended to read:

Sec. 3. As a part of the annual state and segmental budgetary processes, and at any other times requested by the Governor or the Legislature, the Trustees of the California State University, and, if they so elect, the Board of Directors of the Hastings College of the Law, and the Regents of the University of California, and appropriate state executive and legislative fiscal agencies shall report on the state long-term student fee policy and the procedures and methodologies implementing that policy.

A segment in this process may select a methodology authorized pursuant to this act that is different from the methodology used in prior years, subject to review by the California Postsecondary Education Commission and the approval of the Department of Finance.

SEC. 5. Section 66165 of the Education Code is amended to read:

66165. This chapter shall remain in effect for the 1991–92, 1992–93, 1993–94, 1994–95, and 1995–96 school years, and as of August 31, 1996, is repealed.

SEC. 6. For the 1990–91 school year, the Budget Act as enacted by Chapter 467 of the Statutes of 1990 shall govern student fee levels.

CHAPTER 573

An act to add Article 5u (commencing with Section 998.098) to Chapter 6 of Division 4 of the Military and Veterans Code, relating to the financing of a program to provide farm and home aid for veterans in accordance with the Veterans' Farm and Home Purchase Act of 1974, and acts amendatory thereof and supplemental thereto, through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1990. Filed with Secretary of State August 30, 1990]

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

SECTION 1. Article 5u (commencing with Section 998.098) is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

Article 5u. Veterans' Bond Act of 1990

998.098. This article may be cited as the Veterans' Bond Act of 1990.

998.099. (a) The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full in this article. All references in this article to "herein" refer both to this article and that law.

(b) For purposes of the State General Obligation Bond Law, the Department of Veterans Affairs is designated the board.

998.100. As used herein, the following words have the following meanings:

(a) "Bond" means veterans' bond, a state general obligation bond, issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.

(b) "Committee" means the Veterans' Finance Committee of 1943, created by Section 991.

(c) "Board" means the Department of Veterans Affairs.

(d) "Fund" means the Veterans' Farm and Home Building Fund of 1943, created by Section 988.

(e) "Bond act" means this article authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.

998.101. For the purpose of creating a fund to provide farm and home aid for veterans in accordance with the Veterans' Farm and

Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50)), and of all acts amendatory thereof and supplemental thereto, the committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than four hundred million dollars ($400,000,000), exclusive of refunding bonds, in the manner provided herein.

998.102. (a) All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

(b) There shall be collected annually in the same manner and at the same time as other state revenue is collected a sum of money, in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, these bonds as provided herein, and all officers required by law to perform any duty in regard to the collection of state revenues shall collect this additional sum.

(c) On the dates on which funds are remitted pursuant to Section 16676 of the Government Code for the payment of the then maturing principal of, and interest on, the bonds in each fiscal year, there shall be returned to the General Fund all of the money in the fund, not in excess of the principal of, and interest on, any bonds then due and payable, except as herein provided for the prior redemption of the bonds. If the money so returned on the remittance dates is less than the principal and interest then due and payable, the balance remaining unpaid shall be returned to the General Fund out of the fund as soon as it shall become available, together with interest thereon from the dates of maturity until so returned, at the same rate of interest as borne by the bonds, compounded semiannually.

998.103. There is hereby appropriated from the General Fund, for purposes of this article, a sum of money that will equal both of the following:

(a) That sum annually necessary to pay the principal of, and the interest on, the bonds issued and sold as provided herein, as that principal and interest become due and payable.

(b) That sum necessary to carry out Section 998.104, appropriated without regard to fiscal years.

998.104. For purposes of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of a sum of money not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold pursuant to this article. Any sums withdrawn shall be deposited in the fund. All money made available under this section to the board shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this article.

998.105. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account,

in accordance with Section 16312 of the Government Code, for the purposes of carrying out this chapter. The amount of the request shall not exceed the amount of unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. The board shall execute whatever documents are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

998.106. Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board's plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all the bonds be issued or sold at any one time.

998.107. So long as any bonds authorized under this article are outstanding, the Director of Veterans Affairs shall, at the close of each fiscal year, require a survey of the financial condition of the Division of Farm and Home Purchases, together with a projection of the division's operations, to be made by an independent public accountant of recognized standing. The results of each survey and projection shall be reported in writing by the public accountant to the Director of Veterans Affairs, the California Veterans Board, and the committee.

The Division of Farm and Home Purchases shall reimburse the public accountant for these services out of any money which the division may have available on deposit with the Treasurer.

998.108. The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times fixed by the Treasurer.

Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value, notwithstanding Section 16754 of the Government Code. However, the discount on the bonds shall not exceed 3 percent of the par value thereof.

998.109. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

998.110. Any bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. The approval of the voters for the issuance of bonds under this article includes approval for the issuance of bonds issued to refund bonds originally issued or any previously issued

refunding bonds.

998.111. Notwithstanding any provision of the bond act, if the Treasurer sells bonds under this article for which bond counsel has issued an opinion to the effect that the interest on the bonds is excludable from gross income for purposes of federal income tax, subject to any conditions which may be designated, the Treasurer may establish separate accounts for the investment of bond proceeds and for the earnings on those proceeds, and may use those proceeds or earnings to pay any rebate, penalty, or other payment required by federal law or take any other action with respect to the investment and use of bond proceeds required or permitted under federal law necessary to maintain the tax-exempt status of the bonds or to obtain any other advantage under federal law on behalf of the funds of this state.

998.112. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this article are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by Article XIII B.

SEC. 2. Section 1 of this act shall take effect upon the adoption by the people of the Veterans' Bond Act of 1990, as set forth in Section 1 of this act.

SEC. 3. (a) Notwithstanding Sections 3525, 3528, 3529, 3560, 3578, and 10218 of the Elections Code or any other provisions of law, Section 1 of this act shall be submitted to the voters at the November 6, 1990, general election.

(b) The Secretary of State shall ensure the placement of Section 1 of this act on the November 6, 1990, general election ballot, in substantial compliance with any statutory time requirements applicable to the submission of statewide measures to the voters at a statewide election.

(c) Notwithstanding Section 3531 of the Elections Code, the Attorney General shall prepare and return to the Secretary of State a ballot title for the bond act contained in Section 1 of this act as expeditiously as possible, but not later than two days after the effective date of this act.

(d) Notwithstanding Section 3572 of the Elections Code, the Legislative Analyst shall prepare an impartial analysis of the bond act contained in Section 1 of this act as expeditiously as possible, but not later than five days after the effective date of this act, and the analysis shall not be submitted to a review committee.

(e) The Secretary of State shall include, in the ballot pamphlet mailed pursuant to Section 3578 of the Elections Code, the information specified in Section 3570 of that code regarding the bond act contained in Section 1 of this act.

If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding the bond act to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot

pamphlet shall, notwithstanding Section 3578 of that code, be mailed at least 14 days before the election.

SEC. 4. Notwithstanding any other provision of law, all ballots at the election shall have printed thereon, in a square, the words: " Veterans' Bond Act of 1990," and in the same square, under the words, the following in 8-point type: "This act provides for a bond issue of four hundred million dollars ($400,000,000) to provide farm and home aid for California veterans." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting of the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

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 Veterans' Bond Act of 1990 may be included on the November 6, 1990, statewide ballot in furtherance of an orderly program of providing farm and home purchase benefits to California veterans, it is necessary that this act take effect immediately.

CHAPTER 574

An act to add and repeal Section 8869.94 of the Government Code, to amend Section 51350 of, and to add Section 50952.5 to, the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 4, 1990]

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

SECTION 1. Section 8869.94 is added to the Government Code, to read:

8869.94. (a) Notwithstanding any other provision of this chapter, an amount of the state ceiling shall be reserved for qualified mortgage revenue bonds and allocated by the committee to the California Housing Finance Agency for the purpose of providing owner-occupied housing as follows:

(1) For the 1991 calendar year, four hundred seventy million dollars ($470,000,000).

(2) For the 1992 calendar year, five hundred five million dollars

($505,000,000).

(b) Allocations made pursuant to subdivision (a) may be issued as mortgage revenue bonds at any time by the California Housing Finance Agency in compliance with federal law.

(c) Allocations made pursuant to subdivision (a) shall not preclude application by the California Housing Finance Agency for any other program purpose defined under federal law as a qualified use of proceeds authorized under the state ceiling on private activity bond allocations.

(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. 2. Section 50952.5 is added to the Health and Safety Code, to read:

50952.5. (a) It is the intent of the Legislature, and it shall be a goal of the agency, that not less than one-half of the dollar amount of financing for single-family homes shall fund loans for purchasers who will be the first occupant.

(b) The agency shall include in its annual report required by Section 51005 specific information evaluating the extent to which the agency has attained this goal.

SEC. 3. Section 51350 of the Health and Safety Code is amended to read:

51350. (a) The agency may from time to time, after action of the Housing Bond Credit Committee as provided in Section 51360, issue its bonds in the principal amount which the agency determines necessary to provide sufficient funds for financing housing developments and other residential structures and for the payment of interest on bonds of the agency, establishment of reserves to secure the bonds, and other expenditures of the agency incident to, and necessary or convenient to, issuance of the bonds.

(b) Sale of the bonds of the agency shall be coordinated by the Treasurer. To obtain a date for the sale of bonds, the agency shall inform the Treasurer of the amount of the proposed issue. Upon that notification, the Treasurer shall provide three 10-day periods, within the 90 days next following, when the bonds can be sold. The agency may choose any date during the suggested periods or any other date to which the agency and the Treasurer have mutually agreed. The Treasurer shall sell the bonds on the date chosen according to terms approved by the agency.

The Housing Bond Credit Committee shall exercise its powers with due regard for the right of the holders of bonds of the agency at any time outstanding, and nothing in, or done pursuant to, this section shall in any way limit, restrict, or alter the obligation or powers of the agency or any member, officer, or representative of the agency or the Treasurer to carry out and perform in every detail each and every convenant, agreement, or contract at any time made or entered into on behalf of the agency with respect to its bonds or its benefits, or the security of the holders of the bonds.

(c) Except as provided in subdivisions (d), (e), (f), (g), and (h), the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall not exceed seven hundred fifty million dollars ($750,000,000), exclusive of the principal indebtedness of bonds issued to refund or renew previously issued bonds of the agency, to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, during the period in which both the previously issued bonds and the refunding or renewal bonds are outstanding.

(d) Effective January 1, 1980, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be increased by seven hundred fifty million dollars ($750,000,000), exclusive of (1) bonds previously authorized pursuant to subdivision (c), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(e) Effective January 1, 1983, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by three hundred fifty million dollars ($350,000,000) exclusive of (1) bonds previously authorized pursuant to subdivision (c) or (d), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(f) Effective January 1, 1984, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by five hundred million dollars ($500,000,000) exclusive of (1) bonds previously authorized pursuant to subdivision (c), (d), or (e), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(g) On the effective date of the amendments to this section enacted by the Statutes of 1985, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part

shall be additionally increased by six hundred million dollars ($600,000,000), exclusive of (1) bonds previously authorized pursuant to subdivision (c), (d), (e), or (f), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(h) On the effective date of the amendments to this section enacted by the Statutes of 1985, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by six hundred million dollars ($600,000,000), exclusive of (1) bonds previously authorized pursuant to subdivision (c), (d), (e), (f), or (g), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(i) On the effective date of the amendments to this section which add this subdivision, the aggregate principal amount of bonds which may be outstanding at any one time pursuant to this part shall be additionally increased by nine hundred million dollars ($900,000,000), exclusive, of: (1) bonds previously authorized pursuant to subdivision (c), (d), (e), (f), (g), or (h), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and the refunding or renewal bonds are outstanding.

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 California Housing Finance Agency to continue to finance certain vital housing programs, it is necessary that this act take immediate effect.

CHAPTER 575

An act to add Chapter 14.6 (commencing with Section 67358) to Part 40 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Chapter 14.6 (commencing with Section 67358) is added to Part 40 of the Education Code, to read:

CHAPTER 14.6. HIGHER EDUCATION FACILITIES BOND ACT OF NOVEMBER 1990

Article 1. General Provisions

67358. This chapter shall be known and may be cited as the Higher Education Facilities Bond Act of November 1990.

67358.1. The Legislature finds and declares all of the following:

(a) California's economic and social prosperity relies on a higher education system that keeps pace with California's growth. In the coming decades, the state's economic prosperity will depend on increasing the productivity of the work force and on the ability to compete successfully in the world marketplace.

(b) The system of public higher education in this state includes the University of California containing nine campuses, the California State University containing 20 campuses, the California Community Colleges consisting of 71 districts containing 107 campuses, the Hastings College of the Law, the California Maritime Academy, and their respective off-campus centers. Each of these institutions plays a vital role in maintaining California's dominance in higher education in the United States.

(c) Over the last several years, studies have been completed by the University of California, the California State University, and the California Community Colleges to assess their long-term and short-term capital needs. Those studies demonstrate that the long-term and short-term needs total, in the aggregate, several billion dollars.

(d) The purpose of the Higher Education Facilities Bond Act of November 1990 is to assist in meeting the capital outlay financing needs of California's public higher education system.

67358.2. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the Higher Education Facilities Finance Committee created pursuant to Section 67353.

(b) "Fund" means the 1990 Higher Education Capital Outlay

Bond Fund created pursuant to Section 67358.3.

Article 2. Higher Education Facilities Bond Act Program

67358.3. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the 1990 Higher Education Capital Outlay Bond Fund, which is hereby created.

67358.4. (a) The committee shall be and is hereby authorized to create a debt or debts, liability or liabilities, of the State of California pursuant to this chapter for the purpose of funding aid to the University of California, the California State University, the California Community Colleges, the Hastings College of the Law, and the California Maritime Academy for the construction, including the construction of buildings and the acquisition of related fixtures, the construction or improvement of off-campus facilities of the California State University approved by the Trustees of the California State University on or before July 1, 1990, renovation, and reconstruction of facilities, for the acquisition of sites upon which these facilities are to be constructed, and for the equipping of new, renovated, or reconstructed facilities, and to provide funds for payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings. The addition of the Hastings College of the Law to this section is not intended to mark a change from the funding authorizations made by Section 67354, as contained in the Higher Education Facilities Bond Act of 1986, or Section 67334, as contained in the Higher Education Facilities Bond Act of 1988, but is intended to more clearly state what was intended by the Legislature in those sections as well.

(b) Moneys made available under Section 67359 or 67359.2 may be used to provide short-term loans to community colleges for the purchase of instructional equipment. Those loans shall be repaid from the first moneys available in the Capital Outlay Fund for Public Higher Education beginning in the 1990–91 fiscal year, or from proceeds of the bonds.

Article 3. Fiscal Provisions

67358.5. (a) Bonds in the total amount of four hundred fifty million dollars ($450,000,000), not including the amount of any refunding bonds issued in accordance with Section 67359.3, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the committee at any different times necessary to service expenditures required by the apportionments.

67358.6. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law shall apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter. For purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the bond fund is designated as the "board" for projects funded by those appropriations.

67358.7. The committee shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Section 67358.4 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

67358.8. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

67358.9. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 67359, appropriated without regard to fiscal years.

67359. For the purposes of carrying out this chapter, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, together with interest at the rate paid on moneys in the Pooled Money Investment Account, from money received from the sale of bonds for

the purpose of carrying out this chapter.

No funds shall be expended pursuant to this chapter for the acquisition and development of new campuses which would increase the number of campuses designated in Section 67358.1.

67359.1. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

67359.2. The board may request the Pooled Money Investment Board for a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, and may execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. The loan shall be deposited in the fund for the purpose of carrying out the provisions of this chapter. The amount of the loan shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purposes of this chapter.

67359.3. Any bonds issued and sold pursuant to this chapter may be refunded by the issuance and sale or exchange of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. The approval by the electors of this state of the issuance and sale of bonds under this chapter includes approval of the issuance and sale or exchange of any bonds issued to refund either those bonds or any previously issued refunding bonds.

67359.4. Notwithstanding any provision of this chapter or the State General Obligation Bond Law set forth in Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on these proceeds, and the Treasurer shall be authorized to use or direct the use of these proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds require or desirable under federal law so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 2. Section 1 of this act shall take effect upon the adoption by the voters of the Higher Education Facilities Bond Act of November 1990, set forth in Section 1 of this act.

SEC. 3. (a) Notwithstanding Sections 3525, 3528, 3529, 3560, 3578, and 10218 of the Elections Code or any other provisions of law, Section 1 of this act shall be submitted to the voters at the November 6, 1990, general election.

(b) The Secretary of State shall ensure the placement of Section 1 of this act on the November 6, 1990, general election ballot, in

substantial compliance with any statutory time requirements applicable to the submission of statewide measures to the voters at a statewide election.

(c) Notwithstanding Section 3531 of the Elections Code, the Attorney General shall prepare and return to the Secretary of State a ballot title for the bond act contained in Section 1 of this act within two days after the effective date of this act.

(d) Notwithstanding Section 3572 of the Elections Code, the Legislative Analyst shall prepare an impartial analysis of the bond act contained in Section 1 of this act within five days after the effective date of this act, and the analysis shall not be submitted to a review committee.

(e) The Secretary of State shall include, in the ballot pamphlet mailed pursuant to Section 3578 of the Elections Code, the information specified in Section 3570 of that code regarding the bond act contained in Section 1 of this act.

If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding the bond act to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot pamphlet shall, notwithstanding Section 3578 of that code, be mailed at least 14 days before the election.

SEC. 4. Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "Higher Education Facilities Bond Act of November 1990," and in the same square under those words, the following in 8-point type: "This act provides for a bond issue of four hundred fifty million dollars ($450,000,000) to provide funds for the construction or improvement of facilities of California's public higher education institutions, which include the University of California's nine campuses, the California State University's 20 campuses, the 71 districts of the California Community Colleges containing 107 campuses, the Hastings College of the Law, the California Maritime Academy, and off-campus facilities of the California State University approved by the Trustees of the California State University on or before July 1, 1990. The use of funds authorized under this act includes, but is not necessarily limited to, the construction or improvement of classrooms, laboratories, and libraries, and the implementation of earthquake and other health or safety improvements." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This bill would provide the people of California with an opportunity to provide funding in 1990 for critically needed higher education facilities. In order that the Higher Education Facilities Bond Act of 1990 contained in Section 1 of this act, which provides for this funding, be included on the November 6, 1990, general election ballot, it is necessary that the act take effect immediately.

CHAPTER 576

An act to add Chapter 17 (commencing with Section 7440) to Title 7 of Part 3 of the Penal Code, relating to financing a prison and community-based correctional facilities construction program by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Chapter 17 (commencing with Section 7440) is added to Title 7 of Part 3 of the Penal Code, to read:

CHAPTER 17. NEW PRISON CONSTRUCTION BOND ACT OF 1990-B

7440. This chapter shall be known and may be cited as the New Prison Construction Bond Act of 1990-B.

7441. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter except that, notwithstanding anything in the State General Obligation Bond Law, the maximum maturity of the bonds shall not exceed 20 years from the date of each respective series. The maturity of each respective series shall be calculated from the date of that series.

7442. (a) There is in the State Treasury the 1990-B Prison Construction Fund which is hereby created. The proceeds of the sale of bonds authorized by this chapter shall be deposited in the 1990-B Prison Construction Fund. Upon request of the Department of Corrections and upon approval of the Director of Finance, appropriations or augmentations to appropriations made from the 1984 Prison Construction Fund established by Section 7202, the 1986 Prison Construction Fund established by Section 7302, or the 1988

Prison Construction Fund established by Section 7402, or the 1990 Prison Construction Fund established by Section 7422, or any combination thereof may be funded from the 1990-B Prison Construction Fund created by this section. If appropriations are so carried forward, "fund" means the 1984 Prison Construction Fund, the 1986 Prison Construction Fund, the 1988 Prison Construction Fund, the 1990 Prison Construction Fund established by Section 7422, or the 1990-B Prison Construction Fund established by Section 7442, or any combination thereof, as is appropriate. At least 30 days prior to requesting that an appropriation be carried forward as authorized by this section, the Department of Corrections shall notify the chairpersons of the fiscal committees in each house of the Legislature, and the chairperson and the vice chairperson of the Joint Legislative Budget Committee.

(b) Notwithstanding any provision of this chapter or the State General Obligation Bond Law as set forth in Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer shall be authorized to maintain separate accounts for the investment of bond proceeds and the investment earnings on such proceeds, and the Treasurer shall be authorized to use or direct the use of those proceeds or earnings to pay any rebate, penalty or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

7443. The 1990-B Prison Construction Committee is hereby created. The committee shall consist of the Controller, the Treasurer, and the Director of Finance, or their designated representatives. A majority can act for the committee. The Treasurer shall chair the committee. That committee shall be the "committee," as that term is used in the State General Obligation Bond Law.

When funds are appropriated to the Department of Corrections, the department is the "board" for the purpose of the State General Obligation Bond Law and this chapter. When funds are appropriated to the Department of the Youth Authority, the Department of the Youth Authority is the "board" for the purpose of the State General Obligation Bond Law and this chapter.

7444. The committee is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate principal amount of four hundred fifty million dollars ($450,000,000), exclusive of refunding bonds, or so much thereof as is necessary, which may be issued and sold to provide a fund to be used for carrying out the purposes expressed in Section 7446 and to be used to reimburse the General Obligation Bond

Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

7445. The committee may determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter, and if so, the amount of bonds then to be issued and sold. The committee may authorize the Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the Treasurer.

7446. The moneys in the fund shall be used for the acquisition, construction, renovation, remodeling, and deferred maintenance of state youth and adult correctional facilities. Moneys deposited in the fund may also be used for the refinancing of interim debt incurred for any of the purposes specified in this section. Of the moneys deposited in the fund pursuant to this chapter, fifteen million dollars ($15,000,000) shall be used for planning and construction by, or under the supervision of, the Department of Corrections of multipurpose community-based facilities for programs designed to reduce drug use, recidivism, and violence in the state's prison system, including, but not limited to, restitution centers, facilities for the incarceration and rehabilitation of drug offenders, and centers for intensive programs for parolees and offenders with nonviolent records, as recommended by the Blue Ribbon Commission on Inmate Population Management.

7447. (a) All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both the principal thereof and interest thereon.

(b) There shall be collected annually in the same manner and at the same time as other state revenue is collected, that sum, in addition to the ordinary revenues of the state, that is required to pay the principal of and interest on those bonds, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of that revenue to do and perform each and every act which shall be necessary to collect that additional sum.

(c) All money deposited in the fund that has been derived from premiums or accrued interest on bonds sold shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

(d) All money deposited in the fund pursuant to any provision of law requiring repayments to the state that is financed by the proceeds of the bonds authorized by this chapter shall be available for transfer to the General Fund. When transferred to the General Fund, that money shall be applied as a reimbursement to the General Fund on account of the principal of and interest on the bonds which have been paid from the General Fund.

7448. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State

Treasury for the purpose of this chapter such an amount as will equal the following:

(a) That sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to this chapter.

(b) That sum as is necessary to carry out the provisions of Section 7449, which sum is appropriated without regard to fiscal years.

7449. For the purpose of carrying out this chapter, the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the committee in accordance with this chapter. Any money made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter. Those withdrawals from the General Fund shall be returned to the General Fund with interest at the rate which would otherwise have been earned by those sums in the Pooled Money Investment Account.

7450. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out the provisions of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

7451. Any bonds issued and sold pursuant to this chapter may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of bonds shall include the approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

7452. All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 7446, but shall not be available for transfer to the General Fund to pay the principal of and interest on bonds. The money in the fund may be expended only as herein provided.

Notwithstanding any other provision of this chapter, or the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the

bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and the use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

7453. Money in the fund may only be expended pursuant to appropriations by the Legislature. The Department of Corrections and the Department of the Youth Authority, annually on or before January 10, shall submit their respective five-year facility master plans to the Legislature. Each plan shall include a program of proposed expenditures from the 1990-B Prison Construction Fund.

7454. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 2. Section 1 of this act shall take effect upon the adoption by the voters of the New Prison Construction Bond Act of 1990-B.

SEC. 3. (a) Notwithstanding Sections 3525, 3528, 3529, 3560, 3578, and 10218 of the Elections Code, or any other provisions of law, Section 1 of this act shall be submitted to the voters at the November 6, 1990, general election.

(b) The Secretary of State shall ensure the placement of Section 1 of this act on the November 6, 1990, general election ballot, in substantial compliance with any statutory time requirements applicable to the submission of statewide measures to the voters at a statewide election.

(c) Notwithstanding Section 3531 of the Elections Code, the Attorney General shall prepare and return to the Secretary of State a ballot title for the bond act contained in Section 1 of this act within two days after the effective date of this act.

(d) Notwithstanding Section 3572 of the Elections Code, the Legislative Analyst shall prepare an impartial analysis of the bond act contained in Section 1 of this act within five days after the effective date of this act, and the analysis shall not be submitted to a review committee.

(e) The Secretary of State shall include, in the ballot pamphlet mailed pursuant to Section 3578 of the Elections Code, the information specified in Section 3570 of that code regarding the bond act contained in Section 1 of this act.

If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding the bond act to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot

pamphlet shall, notwithstanding Section 3578 of that code, be mailed at least 14 days before the election.

SEC. 4. Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "New Prison Construction Bond Act of 1990-B," and in the same square under those words, the following in 8-point type: "This act provides for a bond issue of four hundred fifty million dollars ($450,000,000) to provide funds to relieve overcrowding in the state's prisons and the Youth Authority facilities through new construction." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

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 New Prison Construction Bond Act of 1990-B may be timely placed on the November 6, 1990, General Election ballot, it is essential that this act take effect immediately.

CHAPTER 577

An act to amend Sections 52501, 52526, 52528, 52529, 52533, 53130, and 53160 of, to amend and renumber Section 52504 of, to add Sections 52531.5, 52532.3, and 52532.6 to, to add Section 53137 to Part 8 (commencing with Section 53130) of Division 31 of, to add Chapter 10 (commencing with Section 51475) to Part 3 of Division 31 of, to add Part 11 (commencing with Section 53500) to Division 31 of, to repeal Section 52502 of, and to repeal and add Section 52506 of, to repeal and add Chapter 2 (commencing with Section 52510) to Part 6 of Division 31 of, the Health and Safety Code, relating to financing a housing program by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Chapter 10 (commencing with Section 51475) is added to Part 3 of Division 31 of the Health and Safety Code, to read:

CHAPTER 10. MULTIFAMILY HOUSING

51475. (a) The Legislature finds and declares:

(1) Significant amounts of housing built to serve lower income households and families is disappearing from the housing market. This phenomenon is due to government policies that allow prepayment of mortgages, termination of use restrictions and nonrenewal of subsidy contracts and to changes in market forces which increase property values and create pressure to convert to middle or upper income housing or other commercial uses. These conversions displace lower income tenants who have very limited options for relocating in comparable affordable housing.

(2) There are nearly 2,000 rental housing projects built in this state prior to 1980 under Section 236, Section 221 (d) (3) and Section 8 programs of the United States Department of Housing and Urban Development and the Section 515 Program of the federal Farmers' Home Administration, containing approximately 123,000 units subject to potential conversion to higher market rent housing or condominium units which will result in the displacement of lower income tenants.

(3) It is in the public interest to preserve and expand our existing affordable lower income housing stock.

(b) It is the intent of the Legislature to provide a flexible and expeditious source of mortgage financing for bridge loans and gap financing to preserve and expand existing afforable lower income rental housing stock.

51476. The agency shall administer a program for the preservation of multifamily housing under authority of this chapter with funds made available by the California Housing Bond Act of 1990.

51477. There is hereby created in the State Treasury an Affordable Housing Preservation and Rehabilitation Fund. "Fund" as used in this chapter means the Affordable Housing Preservation and Rehabilitation Fund. Notwithstanding the provisions of Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the agency without regard to fiscal years, for expenditure pursuant to this chapter and for defraying the actual administrative costs of the agency incurred pursuant to this chapter. Notwithstanding Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the fund shall be deposited in the fund.

51478. All of the powers granted under this chapter are cumulative with powers of the agency under other provisions of this part, and this chapter constitutes an alternative method to issue bonds and to make mortgage loans pursuant to the provisions of this chapter.

51479. In administering a program for the preservation of multifamily housing hereunder, the agency may segregate funds

available for these purposes into separate accounts as necessary to reflect the different types of assistance authorized by this chapter. In order to accomplish the goals of this chapter, all or some portion of bonds sold under authority of Part 11 (commencing with Section 53500) may bear interest which is taxable under the Internal Revenue Code.

51480. (a) (1) Mortgage lending authorized by this chapter shall be for multifamily rental housing developments at risk of conversion. For the purposes of this chapter, multifamily rental housing developments at risk of conversion shall include any of the following:

(A) Federally assisted housing for which the low-income use restriction may terminate or be substantially modified within four years.

(B) State or locally assisted housing for which the low-income use restrictions may terminate or be substantially modified within four years.

(C) Other privately owned housing serving at least 30 percent lower income tenants which is demonstrated to be at risk of converting to other residential or nonresidential use within four years resulting in the displacement of lower income tenants.

(2) For the purposes of this chapter, "substantially modified" means any change to use restrictions which would result in reducing the number of units originally required to be set aside for lower income tenants or reducing the time the units are required to be set aside for lower income tenants.

(b) Mortgage lending authorized by this chapter for multifamily rental housing developments at risk of conversion shall include the following:

(1) Loans for the acquisition of an existing multifamily rental housing development for a temporary period prior to and pursuant to a plan made or approved by the agency for permanent financing and any necessary rehabilitation of the multifamily rental housing development. Loans made pursuant to this paragraph shall not exceed 90 percent of the value of the property and the costs of holding the housing for a period of up to three years and shall accrue simple interest at a rate of 3 percent per annum. All principal and accrued interest shall be due and payable not later than three years from the date of the loan, or earlier upon sale, refinancing, syndication, or permanent loan closing. The board may extend the term of the loan for one additional year based on a finding that additional time is needed to secure permanent financing for the development. The loan shall be subject to a regulatory agreement with an occupancy restriction for the assisted units for 40 years.

(2) Loans for acquisition or acquisition and rehabilitation secured by a lien junior to other permanent financing for a multifamily rental housing development pursuant to a plan made or approved by the agency for permanent financing and any necessary rehabilitation of the multifamily rental housing development. Loans made pursuant

to this paragraph shall be made upon terms and conditions determined by the board, but in an amount which, when added to debt secured by a lien senior to the loan, does not exceed 90 percent of the value of the property or if the property is rehabilitated, 90 percent of the after rehabilitation value. The amount included in an acquisition and rehabilitation loan for rehabilitation shall not exceed $5,000 per unit. The number of assisted units shall be at least equal to the proportion of project cost financed pursuant to this chapter to total project cost. Loans made pursuant to this paragraph shall be for a term of not less than 40 years and shall bear simple interest at a rate of 3 percent per annum. The board may extend the term of the loan for an additional 10 years as long as the rental housing development is operated in a manner consistent with the regulatory agreement. The board, in its discretion, may provide for the current payment of interest or for the accrual of interest over the term of the loan. All principal and any accrued interest shall be due and payable at the end of the loan term, or earlier upon sale, refinancing or syndication of the property unless the agency determines the proceeds obtained from a refinancing or syndication are necessary to maintain the housing development in accordance with the terms and conditions of the regulatory agreement or otherwise further the purposes of the chapter. The loan shall be subject to a regulatory agreement with an occupancy restriction for the assisted units for 40 years.

(c) (1) In making mortgage loans pursuant to this chapter, the agency shall consider the public benefit to be derived from the loan, and the amount of loan shall not exceed the amount necessary to ensure the preservation and or expansion of lower income housing consistent with paragraph (2).

The loan amount shall be limited to the total amount required, when considered with other available financing and assistance, in order to achieve all of the following:

(A) Enable the acquisition or acquisition and rehabilitation of assisted rental housing units.

(B) Ensure that rents for assisted units are in accordance with program requirements.

(C) Operate in compliance with all other program requirements.

(D) Allow a debt service coverage ratio in an amount sufficient to satisfy the requirements of other lenders providing financing for the rental housing development, but not to exceed 115 percent.

(2) In making loans pursuant to this chapter, the agency shall do the following:

(A) Establish application forms and materials.

(B) Accept applications at any time and make loan commitments at scheduled meetings of the board.

(C) Ensure that the housing development meets minimum threshold requirements relating to the capability of the applicant to develop and manage the housing development.

(D) Ensure that the housing development is economically feasible and complies with the program requirements of this chapter.

(E) Use the following preferences in evaluating the housing developments and making loan commitments:

(i) The smallest percentage of the maximum allowable rents for lower income tenants.

(ii) The longest period of affordability.

(iii) The least permanent displacement of lower income tenants.

(iv) The greatest number of units consisting of three or more bedrooms.

(v) The greatest number of units for single room occupancy for very low income tenants.

(vi) The maximum use of private, local, federal, and other financing.

(vii) The greatest impact on the availability of affordable low-income housing in a community.

(F) In making loans pursuant to this subdivision, the agency shall consider variances in market conditions relating to the cost of developing rental housing.

(d) (1) All loans made pursuant to this section shall be subject to a regulatory agreement executed by the borrower and recorded in the office of the county recorder of the county in which the property is located.

(2) The regulatory agreement shall contain at least all of the following:

(A) Restrictions on occupancy of units within the housing development to meet the requirements of paragraphs (1) and (2) of subdivision (b).

(B) Provisions governing tenant selection to ensure occupancy by lower income tenants.

(C) Provisions governing occupancy standards and rental agreements.

(D) Provisions for setting rents pursuant to subdivision (g).

(E) Provisions limiting distribution of earnings pursuant to paragraphs (1) and (2) of subdivision (*l*).

(F) Provisions specifying the conditions under which the agency and any intended beneficiary may enforce the regulatory agreement.

(3) The regulatory agreement shall be recorded against the property and shall be deemed a covenant running with the land and shall be binding upon the sponsor and any and all successors in interest in case of sale or transfer of the housing development for the original term of the loan, regardless of any prepayment of the loan, except when the sale or transfer is a result of a foreclosure by the first lienholder.

(e) Not less than 20 percent, nor more than 40 percent, of the assisted units financed pursuant to paragraph (3) of subdivision (a) shall be available on a priority basis to elderly or handicapped persons.

(f) (1) No loan shall be made pursuant to this section if, as a result of the loan, the aggregate number of units in the housing

development available to persons of low and very low income would be less than the number of those units available prior to making the loan.

(2) No loan shall be made pursuant to this section unless the number of low- and very low income units is equal to or exceeds 30 percent of the total units in the housing development, except that a loan may be made when the number of units is equal to or exceeds 20 percent of the total units when the housing development was originally financed using tax-exempt bond proceeds and the housing sponsor agrees to increase the number of low- and very low income units to 30 percent of the total units as the units become available.

(g) (1) For all units not receiving assistance payments under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f), or other rental assistance payments, the respective rent for each assisted unit existing prior to loan assistance shall be the base rent for that unit. The base rent for each occupied unit may be annually increased in accordance with the inflation index specified in subdivision (h).

(2) For all units receiving project-based payments under Section 8 of the United States Housing Act of 1937 or other rental assistance payments, at the time these payments cease to be available, base rents shall be established as follows: rents for units occupied by tenants earning less than 35 percent of median income shall be no more than 30 percent of 35 percent of median income adjusted for family size appropriate for the unit, rents for units occupied by tenants earning between 35 percent and 50 percent of median income shall be 30 percent of 50 percent of median income adjusted for family size appropriate for the unit, rents for units occupied by tenants earning between 51 percent and 80 percent of median income shall be 30 percent of 60 percent of median income adjusted for family size appropriate for the unit. The base rent for each unit may be annually increased in accordance with the inflation index specified in subdivision (h).

In determining the loan amount, the agency shall ensure that these rent levels are achieved at the time the rental assistance payments cease, taking into account the projected date for cessation of the rental payments. The agency shall require that sponsors make every effort to seek renewal of the rental assistance payments if renewal is possible.

(3) Upon vacancy of an assisted unit, the rent for that unit shall be the last rent charged pursuant to paragraph (1) or (2). The rent for units may be annually increased in accordance with the inflation index specified in subdivision (h).

(4) For the life of the project, the sponsor shall maintain the assisted units in the proportion of tenants with incomes less than 35 percent of median income, between 35 percent and 50 percent of median income, and between 51 percent and 80 percent of median income as existed in the project at the time of application. Upon request of the sponsor, the agency may allow vacated units originally

occupied by tenants earning less than 35 percent of median income to be rented to tenants earning up to 50 percent of median income, adjusted for family size, in the event the agency determines that the base rent is not affordable to tenants below 35 percent of median income.

(h) Rents for units financed pursuant to this section may be automatically increased by the sponsor annually according to an inflation index to be determined by the board. The inflation index shall reflect anticipated annual changes in rental housing development operating costs from the base year in which rents are initially established for the housing development. Any sponsor may appeal to the agency in writing for a greater adjustment in rents necessary to ensure the fiscal integrity of the housing development; the request on appeal shall be deemed approved unless rejected by the agency within 60 days from the date of receipt of the appeal.

(i) Not less than 20 percent of funds made available to the agency for the purposes specified in this section shall be made available for loans in rural areas.

(j) (1) If a multifamily rental housing development assisted by this chapter is not economically feasible, the sponsor, with the approval of the agency, may remove one or more assisted units from the occupancy requirements for a period of time necessary for the development to again become economically feasible.

(2) For purposes of paragraph (1), "economically feasible" means that project revenue equals or exceeds project operating expenses, excluding any return on investment.

(3) For purposes of paragraph (2), "operating expenses" means the reasonable expenses necessary to operate and maintain the project in habitable condition, including debt service, taxes, and reasonable reserves.

(4) For purposes of this paragraph, debt service shall not include the portion of payments of principal and interest attributed to any excess refinanced principal over the outstanding principal of the loan that was refinanced, except to the extent the excess was used for the rehabilitation of the project.

(k) To the extent that any provisions of this section relating to use and rent restriction conflict with the requirements of federal law, the requirements of federal law shall prevail for the period the project is subject to federal restrictions.

(*l*) A loan made pursuant to paragraph (1) or (2) of subdivision (b) may be assumed if the terms, conditions, and requirements of the regulatory agreement are maintained.

(m) (1) A nonprofit sponsor, other than a governmental agency, may distribute earnings from assisted and nonassisted units in an amount no greater than 8 percent of the nonprofit sponsor's actual investment in the housing development. A for-profit sponsor may chose between the following options:

(A) It may distribute earnings from assisted and nonassisted units in an amount no greater than 8 percent of its actual investment in

the housing development.

(B) It may forgo distribution of earnings from assisted units and not be subject to any limitation on the amount of distribution it receives from nonassisted units.

(2) The housing sponsor shall apply any earnings in excess of the amount eligible to be distributed under paragraph (1) to reduce rent of assisted units or to increase the number of assisted units.

51481. Mortgages made by the agency under authority of this chapter shall be secured by a first deed of trust, or by a deed of trust junior to a first deed of trust if it is necessary to accomplish the purposes of this chapter. Except as otherwise specified in this chapter, the principal amount of, and the conditions of mortgage loans, shall be determined by the board.

51482. The agency shall adopt policies by resolution of the board for the admission of tenants, termination of tenancies, and eligibility of developers of housing financed under this part.

51483. The agency shall consult with an outside advisory committee to assist in the implementation of this chapter. The advisory committee shall be comprised of individuals who are knowledgeable about housing finance, the conversion of subsidized housing, the operation of low-income multifamily rental housing, the needs of lower income tenants and the intent and objectives of this chapter.

51484. The agency shall have all powers granted under authority of this part to make commitments and execute agreements with developers, other lenders, and any public or private entity in making mortgage loans authorized by this chapter.

SEC. 2. Section 52501 of the Health and Safety Code is amended to read:

52501. This part shall be administered by the California Housing Finance Agency and all of the provisions of Part 3 (commencing with Section 50900) which are not inconsistent with the provisions of this part shall apply to the agency and its administration of this part. In addition to the purposes of the agency specified in Sections 50154 and 50950, the purpose and role of the agency includes making available financing opportunities for first-time homebuyers in California in the manner provided in this part.

SEC. 3. Section 52502 of the Health and Safety Code is repealed.

SEC. 4. Section 52504 of the Health and Safety Code is amended and renumbered to read:

52502. The First-Time Home Buyers Fund is hereby created in the State Treasury. "Fund," as used in this part, means the First-Time Home Buyers Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are hereby continuously appropriated to the agency , without regard to fiscal years, for expenditure pursuant to this part, and for defraying actual administrative costs of the agency. Notwithstanding the provisions of Section 16305.7 of the Government Code and Section 52530, any interest earned or other increment derived from investments made

from moneys in the fund shall be deposited in the fund. The agency may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, and redemption premiums on, bonds issued pursuant to this part, and for such purpose or as necessary or convenient to the accomplishment of any other purpose of the agency pursuant to this part, may divide the fund into separate accounts. All moneys accruing to the agency pursuant to this part from whatever source shall be deposited in the fund.

SEC. 5. Section 52506 of the Health and Safety Code is repealed.

SEC. 6. Section 52506 is added to the Health and Safety Code, to read:

52506. The agency may, by resolution of the board, adopt, amend, and repeal rules to effectuate the powers and purposes of the agency and for the administration of the mortgage loan program authorized pursuant to this part.

SEC. 7. Chapter 2 (commencing with Section 52510) of Part 6 of Division 31 of the Health and Safety Code is repealed.

SEC. 8. Chapter 2 (commencing with Section 52510) is added to Part 6 of Division 31 of the Health and Safety Code, to read:

CHAPTER 2. FIRST-TIME HOME PURCHASE ASSISTANCE PROGRAM

52510. The agency shall administer a home purchase assistance program in accordance with the provisions of this part to assist first-time homebuyers to utilize mortgage financing available pursuant to Part 3 (commencing with Section 50900) of this division with the additional financial resources made available pursuant to this part.

52511. Home purchase assistance under this part shall include, but not be limited to, both an interest rate subsidy to reduce the interest rate paid by the borrower on the first-mortgage loan and a deferred-payment, low-interest second-mortgage loan to reduce the principal and interest payments on the first-mortgage loan. The amount of home purchase assistance shall not exceed the amount necessary to make the total debt financing affordable to eligible households, but in no event shall the interest rate subsidy reduce the effective interest rate to the borrower below 3 percent per annum, nor shall the deferred-payment, low-interest, second-mortgage loan exceed 49 percent of the total debt financing necessary to purchase the home. The loan amount may include the costs of closing escrow.

52512. The amount of home purchase assistance provided under this part shall constitute a second-mortgage loan secured by a deed of trust of second priority to the first-mortgage loan provided by the agency pursuant to Part 3 (commencing with Section 50900) of this division or by a conventional lender pursuant to policies established by the agency. The second-mortgage loan shall be due and payable upon sale, transfer, or refinancing of the home, except upon

assumption of the loan as provided in this section. If the home is not sold, transferred, or refinanced during the term of the first-mortgage loan, the second-mortgage loan, including any accrued interest, shall begin amortizing on the same terms as the first-mortgage loan on the next periodic payment date after the final payment on the first-mortgage loan until the second-mortgage loan is repaid in full. Mortgage loans under this program may be assumed only if the transferee and the property meet the eligibility requirements of this part. The terms of the promissory note for the second-mortgage loan may include provision for simple interest to accrue over the term of the loan and payable with the loan as provided in this section. Any repayment of principal or payment of interest from loans made pursuant to this part shall be deposited in the First-Time Home Buyers Fund.

52513. Eligible borrowers under this chapter shall be California residents who are first-time homebuyers as determined by Section 50068.5, whose income does not exceed 35 percent of the average area purchase price of resale homes.

52514. Property eligible to be assisted pursuant to this part shall be owner-occupied, single-family dwellings, manufactured homes as installed pursuant to Section 18551, and factory built homes, subject to mortgage loans as provided in Section 52512, the interest on which constitutes interest for the purposes of Section 17230 of the Revenue and Taxation Code, and which otherwise conform to the standards, policies, and procedures of the agency. The purchase price of a property eligible to be assisted shall not exceed either of the following:

(a) One hundred percent of the average area purchase price of a resale home when the borrowers are one- or two-member households.

(b) One hundred ten percent of the average area purchase price of a resale home when the borrowers are three or more member households.

52515. Only mortgage loans which are insured or guaranteed in whole or in part by the Federal Housing Administration, the United States Veterans Administration, the Farmers Home Administration, the California Housing Insurance Fund or any other state agency, a private mortgage insurer authorized to engage in that business, or by any combination of the above in percentages determined by the agency shall be eligible for assistance under this part. Fifteen percent of the fund shall be transferred to the California Housing Insurance Fund to be expended for programs authorized by Part 4 (commencing with Section 51600) for single family home bond and mortgage insurance.

52516. The agency may make commitments to qualified mortgage lenders to make contracts for home purchase assistance which conform to this part. The agency may require the payment to the agency of a commitment fee to cover agency costs in extending these commitments and associated administrative costs.

Commitments shall be made by the agency in a manner designed to serve the interests of first-time homebuyers in geographical areas of the state where existing tax-exempt bond-financed programs do not meet the needs of persons and families of moderate income.

SEC. 9. Section 52526 of the Health and Safety Code is amended to read:

52526. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale and repayment of, and otherwise providing with respect to, the bonds or securities authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. For purposes of this chapter, "securities" has the same meaning as "bonds" as defined in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code).

SEC. 10. Section 52528 of the Health and Safety Code is amended to read:

52528. The committee is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate of two hundred million dollars ($200,000,000), exclusive of refunding bonds, in the manner provided in this chapter. Such debt or debts, liability or liabilities, shall be created for the purpose of providing the funds to be used for the purposes specified in Section 52505 and shall be deposited in the First-Time Home Buyers Fund created pursuant to Section 52502.

SEC. 11. Section 52529 of the Health and Safety Code is amended to read:

52529. The committee, upon the request of the board stating the purposes for which the bonds or securities are proposed to be used and the amount of the proposed issuance, shall determine whether or not it is necessary or desirable to issue any bonds or securities authorized under this chapter, and if so, the amount of bonds or securities then to be issued and sold. The committee may authorize the Treasurer to sell all or any part of the bonds or securities herein authorized at such time or times as may be fixed by the Treasurer.

SEC. 12. Section 52531.5 is added to the Health and Safety Code, to read:

52531.5. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law. Approval by the electors of the state for the issuance of the bonds shall include the approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

SEC. 13. Section 52532.3 is added to the Health and Safety Code, to read:

52532.3. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out the provisions of this chapter. The amount

of the request shall not exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

SEC. 14. Section 52532.6 is added to the Health and Safety Code, to read:

52532.6. Notwithstanding any provision of this chapter or the State General Obligation Bond Law as set forth in Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer shall be authorized to maintain separate accounts for the investment of bond proceeds and the investment earnings on the proceeds, and the Treasurer shall be authorized to use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 15. Nothing contained in this act shall affect the validity of or in any way impair the agency's ability to fulfill its obligations on loans originated under the Cal-First Home Buyers Program prior to the effective date of this act.

SEC. 16. Section 52533 of the Health and Safety Code is amended to read:

52533. Money in the First-Time Home Buyers Fund may only be expended for projects specified in this part.

SEC. 17. Section 53130 of the Health and Safety Code is amended to read:

53130. (a) Moneys deposited in the Roberti Affordable Housing Fund from the sale of bonds pursuant to Part 9 (commencing with Section 53150), shall be allocated for expenditure in accordance with the following schedule:

(1) Two hundred million dollars ($200,000,000) shall be transferred to the Rental Housing Construction Fund to be expended for the programs authorized by Chapter 9 (commencing with Section 50735) of Part 2, except Sections 50738.5 and 50745.1.

(2) Twenty-five million dollars ($25,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the purpose of making deferred-payment loans to acquire and rehabilitate residential hotels, as authorized by Section 50670.

(3) Twenty-five million dollars ($25,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the programs authorized by Chapter 11.5 (commencing with Section

50800) of Part 2.

(4) Fifteen million dollars ($15,000,000) shall be transferred to the Family Housing Demonstration Account to be expended for the programs authorized by Chapter 15 (commencing with Section 50880) of Part 2 of Division 31 of the Health and Safety Code.

(5) Ten million dollars ($10,000,000) shall be transferred to the department for expenditure for the development of migrant farm labor centers authorized by Chapter 8.5 (commencing with Section 50710) of Part 2 of Division 31 of the Health and Safety Code.

(6) Twenty-five million dollars ($25,000,000) shall be transferred to the Home Purchase Assistance Fund to be expended for programs authorized by Chapter 6.8 (commencing with Section 51341) of Part 2 of Division 31 of the Health and Safety Code.

(b) Moneys deposited in the Roberti Affordable Housing Fund from the sale of bonds pursuant to Part 10 (commencing with Section 53190), shall be allocated for expenditure in accordance with the following schedule:

(1) One hundred million dollars ($100,000,000) shall be transferred to the Rental Housing Construction Fund to be expended for the programs authorized by Chapter 9 (commencing with Section 50735) of Part 2, except Sections 50738.5 and 50745.1.

(2) Fifteen million dollars ($15,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the purpose of making deferred-payment loans to acquire and rehabilitate residential hotels, as authorized by Section 50670.

(3) Ten million dollars ($10,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the programs authorized by Chapter 11.5 (commencing with Section 50800) of Part 2.

(4) Twenty-five million dollars ($25,000,000) shall be transferred to the Home Purchase Assistance Fund to be expended for programs authorized by Chapter 6.8 (commencing with Section 51341) of Part 2.

(c) Moneys deposited in the Roberti Affordable Housing Fund from the sale of bonds pursuant to Part 11 (commencing with Section 53500) shall be allocated for expenditure in accordance with the following schedule:

(1) Ten million dollars ($10,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for programs authorized by Chapter 11.5 (commencing with Section 50800) of Part 2.

(2) Fifteen million dollars ($15,000,000) shall be transferred to the California Housing Insurance Fund to be expended for programs authorized by Part 4 (commencing with Section 51600) for multifamily mortgage and bond insurance.

(3) Ten million dollars ($10,000,000) shall be transferred to the Farmworker Housing Grant Fund to be expended for the program authorized by Chapter 3.2 (commencing with Section 50517.5) of Part 2 of Division 31.

(4) Forty-five million dollars ($45,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the programs authorized by Section 50668.5 for rehabilitation loans for rental housing developments and for programs authorized by Section 8878.20 of the Government Code for rehabilitation loans to enable unreinforced masonry multifamily residential structures to withstand earthquakes.

(5) Forty-five million dollars ($45,000,000) shall be transferred to the Affordable Housing Preservation and Rehabilitation Fund to be expended for programs authorized by Chapter 10 (commencing with Section 51475) of Part 3.

No portion of any of the moneys allocated pursuant to this section may be expended for project operating costs, except that this section does not preclude expenditures for operating costs from reserves required to be maintained by or on behalf of the project sponsor.

SEC. 18. Section 53137 is added to Part 8 (commencing with Section 53130) of Division 31 of the Health and Safety Code, to read:

53137. The Legislature may, from time to time, amend the provisions of law relating to programs to which funds are allocated pursuant to Section 53130 for the purpose of improving the efficiency and effectiveness of the program. The Legislature may also, from time to time, amend the provisions of law relating to programs to which funds are allocated pursuant to Section 53130 for the purpose of furthering the goals of those programs.

SEC. 19. Section 53160 of the Health and Safety Code is amended to read:

53160. The proceeds of bonds issued and sold pursuant to this part shall be deposited in the Roberti Affordable Housing Fund, which is hereby created. Moneys in the fund shall be allocated and utilized in accordance with Part 8 (commencing with Section 53130).

SEC. 20. Part 11 (commencing with Section 53500) is added to Division 31 of the Health and Safety Code, to read:

PART 11. CALIFORNIA HOUSING BOND ACT OF 1990

CHAPTER 1. GENERAL PROVISIONS

53500. This part shall be known and may be cited as the California Housing Bond Act of 1990.

53501. As used in this part, the following terms have the following meanings:

(a) "Committee" means the Housing Committee created pursuant to Section 53505.

(b) "Fund" means the Roberti Affordable Housing Fund created pursuant to Section 53160.

CHAPTER 2. ROBERTI AFFORDABLE HOUSING FUND

53502. The proceeds of bonds issued and sold pursuant to this part shall be deposited in the Roberti Affordable Housing Fund. Moneys in the fund shall be allocated as provided in Part 8 (commencing with Section 53130).

CHAPTER 3. FISCAL PROVISIONS

53502.5. Bonds in the total amount of one hundred twenty-five million dollars ($125,000,000), exclusive of refunding bonds issued pursuant to Section 53503, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

53503. Any bonds issued and sold pursuant to this chapter may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of these bonds shall include the approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

53504. The bonds authorized by this part shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this part and are hereby incorporated in this part as though set forth in full in this part.

53505. (a) Solely for the purposes of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this part, the Housing Committee is hereby created. For purposes of this part, the Housing Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Treasurer, the Director of Finance, the Director of Housing and Community Development, and the Executive Director of the California Housing Finance Agency, or their designated representatives. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Department of Housing and Community Development is designated as the "board" for programs administered by the department, the Board of Directors of the California Housing Finance Agency is

designated as the "board" for programs administered by the agency, and the governing board of the California Housing Insurance Fund is designated as the "board" for programs administered by the fund.

53506. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this part in order to carry out the actions specified in Part 8 (commencing with Section 53130) and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

Bonds authorized under this part may bear interest which is taxable for purposes of the Internal Revenue Code or may be exempt from that taxation. Taxable bonds shall, however, only be issued where federal law would preclude the use of the proceeds of tax-exempt bonds for a purpose otherwise permitted under Chapter 10 (commencing with Section 51475) of Part 3 of Division 31.

53507. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

53508. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this part, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this part, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 53509, appropriated without regard to fiscal years.

53509. For the purposes of carrying out this part, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized to be sold for the purpose of carrying out this part. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds for the purpose of carrying out this part.

53510. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out the provisions of this chapter. The amount of the request shall not exceed the amount of unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. The board shall execute such documents as are required by the Pooled Money Investment Board to obtain and

repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

53511. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

53311.5. Notwithstanding any provision of this part or the State General Obligation Bond Law as set forth in Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, if the Treasurer sells bonds pursuant to this part that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer shall be authorized to maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds, and the Treasurer shall be authorized to use or direct the use of those proceeds or earnings to pay any rebate, penalty or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

53512. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this part are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 21. (a) Notwithstanding Sections 3525, 3528, 3529, 3560, 3578, and 10218 of the Elections Code or any other provision of law, a ballot measure that sets forth the California Housing Bond Act of 1990, as set forth in Sections 2 to 16, inclusive and Sections 18 and 20, of this act, shall be submitted to the people of the State of California for their ratification at the statewide election to be held November 6, 1990.

(b) The Secretary of State shall ensure the placement of Sections 2 to 16, inclusive, and Sections 18 and 20 of this act on the November 6, 1990, general election ballot, in substantial compliance with any statutory time requirements applicable to the submission of statewide measures to the voters at a statewide election.

(c) Notwithstanding Section 3531 of the Elections Code, the Attorney General shall prepare and return to the Secretary of State a ballot title for the bond act provisions contained in Sections 2 to 16, inclusive, and Sections 18 and 20, of this act as expeditiously as possible, but no later than two days after the effective date of this act.

(d) Notwithstanding Section 3572 of the Elections Code, the Legislative Analyst shall prepare an impartial analysis of the bond act provisions contained in Sections 2 to 16, inclusive, and Sections 18 and 20, of this act as expeditiously as possible, but no later than five days after the effective date of this act, and the analysis shall not be

submitted to a review committee.

(e) The Secretary of State shall include, in the ballot pamphlet mailed pursuant to Section 3578 of the Elections Code, the information specified in Section 3570 of that code regarding the bond act provisions contained in Sections 2 to 16, inclusive, and Sections 18 and 20, of this act.

If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding the bond act provisions to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot pamphlet shall, notwithstanding Section 3578 of the that code, be mailed at least 14 days before the election.

SEC. 22. Notwithstanding any other provision of law, all ballots of the election on Sections 2 to 16, inclusive, and Sections 18 and 20, of this act shall have printed thereon and in a square thereof, the words: "California Housing Bond Act of 1990," and in the same square under those words, the following in eight-point type: "This act establishes a comprehensive housing program to address the severe housing crisis in California by (a) authorizing the use of funds from the First-Time Home Buyers Bond Act of 1982, under which the voters of this state authorized a bond issue of two hundred million dollars ($200,000,000), to provide financial assistance to first-time homebuyers in the form of interest rate subsidies and deferred-payment, low-interest second-mortgage loans and (b) providing for a bond issue of one hundred twenty-five million dollars ($125,000,000) to provide funds for a housing and earthquake safety program that includes financing for: (1) the preservation and rehabilitation of the existing stock of rental housing for families and individuals, including rental housing which meets the special needs of the elderly and disabled, (2) emergency shelters and transitional housing for homeless families and individuals, (3) a multifamily mortgage loan and bond insurance program, (4) farmworker housing, and (5) rehabilitation loans to enable unreinforced masonry rental buildings to withstand earthquakes." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To provide the people of California with an opportunity to provide funding in 1990 to address a serious housing crisis within the state, it is necessary that this act take immediate effect.

CHAPTER 578

An act to add Chapter 21.3 (commencing with Section 17650) to Part 10 of the Education Code, relating to funding school construction through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Chapter 21.3 (commencing with Section 17650) is added to Part 10 of the Education Code, to read:

CHAPTER 21.3. SCHOOL FACILITIES BOND ACT OF 1990

Article 1. General Provisions

17650. This chapter shall be known and may be cited as the School Facilities Bond Act of 1990.

17650.10. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the State School Building Finance Committee created pursuant to Section 15909.

(b) "Fund" means the State School Building Lease-Purchase Fund.

Article 2. Program Provisions

17650.15. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the fund.

17650.20. All moneys deposited in the fund shall be available to provide aid to school districts of the state in accordance with the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700)), and of all acts amendatory thereof and supplementary thereto, to provide aid to school districts of the state in accordance with Section 17650.30, to provide funds to repay any money advanced or loaned to the State School Building Lease-Purchase Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

17650.25. (a) With respect to the proceeds of bonds to be expended under this chapter for the purposes of Chapter 22 (commencing with Section 17700), all provisions of Chapter 22 (commencing with Section 17700) shall apply.

(b) As to any project that is funded, in whole or in part, from the

proceeds of bonds to be expended under this chapter for the purposes of Chapter 22 (commencing with Section 17700), the state's portion of land costs paid from the proceeds of bonds authorized under this chapter shall not exceed two million two hundred fifty thousand dollars ($2,250,000) per acre, per project.

17650.30. (a) Of the proceeds from the sale of bonds pursuant to this chapter, not more than two hundred sixty million dollars ($260,000,000) may be used for one or more of the following purposes:

(1) Project funding for applicant districts under Chapter 22 (commencing with Section 17700) that are eligible for that funding, but that lack funding priority due to the size of pupil enrollment in the district.

(2) The identification, assessment, or abatement of hazardous asbestos in school facilities, pursuant to either Chapter 22 (commencing with Section 17700) or Section 39619.6.

(3) The acquisition of portable classrooms for use in accordance with Chapter 25 (commencing with Section 17785).

(4) The reconstruction or modernization of facilities within the meaning of Chapter 22 (commencing with Section 17700).

(5) The funding of child care facilities pursuant to Section 8477.

(b) Of the proceeds from the sale of bonds pursuant to this chapter, forty million dollars ($40,000,000) shall be used for the purchase and installation of air-conditioning equipment and insulation materials, and related costs, pursuant to Section 42250.1 for schools operated on a year-round multitrack schedule in a manner that increases school capacity and reduces or eliminates the district's need for the construction of additional classroom space.

(c) Notwithstanding subdivision (b), in the event the board determines that the amount made available under that subdivision exceeds the amount necessary to fund the qualified recipients of the apportionment authorized under that subdivision, as indicated by those applications for that funding received by the board on or before June 30, 1991, the board may expend any portion of that excess for any one or more of the purposes described in subdivision (a).

Article 3. Fiscal Provisions

17650.40. Bonds in the total amount of eight hundred million dollars ($800,000,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

17650.44. The State School Building Finance Committee, created by Section 15909 and composed of the Governor, Controller, Treasurer, Director of Finance, and the Director of Education, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall be designated to chair the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet and advise with the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and as such shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide the assistance to the committee as it may require. The Attorney General of the state shall be the legal adviser of the committee.

17650.45. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the "board."

17650.50. Upon request of the board from time to time, supported by a statement of the apportionments made and to be made for the purposes described in Section 17650.20, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to fund the apportionments and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to fund those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

17650.55. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

17650.60. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and

interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 17650.70, appropriated without regard to fiscal years.

17650.63. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. The board shall execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

17650.65. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes subject to designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and for the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds that is required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

17650.70. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

17650.75. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

17650.80. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the electors of the state for the issuance of the bonds described in this chapter shall include approval of the issuance of any bonds issued to refund any bonds

originally issued under this chapter or any previously issued refunding bonds.

17650.85. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 2. Section 1 of this act shall become operative upon the adoption by the people of the School Facilities Bond Act of 1990, as set forth in Section 1 of this act.

SEC. 3. (a) Notwithstanding Sections 3525, 3528, 3529, 3560, 3578, and 10218 of the Elections Code or any other provisions of law, Section 1 of this act shall be submitted to the voters at the November 6, 1990, general election.

(b) The Secretary of State shall ensure the placement of Section 1 of this act on the November 6, 1990, general election ballot, in substantial compliance with any statutory time requirements applicable to the submission of statewide measures to the voters at a statewide election.

(c) Notwithstanding Section 3531 of the Elections Code, the Attorney General shall prepare and return to the Secretary of State a ballot title for the bond act contained in Section 1 of this act within two days after the effective date of this act.

(d) Notwithstanding Section 3572 of the Elections Code, the Legislative Analyst shall prepare an impartial analysis of the bond act contained in Section 1 of this act within five days after the effective date of this act, and the analysis shall not be submitted to a review committee.

(e) The Secretary of State shall include, in the ballot pamphlet mailed pursuant to Section 3578 of the Elections Code, the information specified in Section 3570 of that code regarding the bond act contained in Section 1 of this act.

If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding the bond act to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot pamphlet shall, notwithstanding Section 3578 of that code, be mailed at least 14 days before the election.

SEC. 4. Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, the words: " School Facilities Bond Act of 1990", and in the same square under those words, the following in 8-point type: "This act provides for a bond issue of eight hundred million dollars ($800,000,000) to provide capital outlay for construction or improvement of public schools." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting of the election is done by means of voting machines used pursuant to law in the manner that carries out the

intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with the provisions of this section.

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 School Facilities Bond Act of 1990 contained in Section 1 of this act may be included on the November 6, 1990, general election ballot, which is needed to provide in a timely manner for the funding, from state general obligation bond proceeds, of critical school facilities construction needs, it is necessary that this act take effect immediately.

CHAPTER 579

An act to add Title 4.9 (commencing with Section 4496.50) to Part 3 of the Penal Code, relating to the financing of a county correctional facility and juvenile facility program by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990]

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

SECTION 1. Title 4.9 (commencing with Section 4496.50) is added to Part 3 of the Penal Code, to read:

TITLE 4.9. COUNTY CORRECTIONAL FACILITY CAPITAL EXPENDITURE AND JUVENILE FACILITY BOND ACT OF 1990

CHAPTER 1. GENERAL PROVISIONS

4496.50. This title shall be known and may be cited as the County Correctional Facility Capital Expenditure and Juvenile Facility Bond Act of 1990.

4496.51. The Legislature finds and declares all of the following:

(a) While the County Jail Capital Expenditure Bond Act of 1981, the County Jail Capital Expenditure Bond Act of 1984, the County Correctional Facility Capital Expenditure Bond Act of 1986, and the County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988 have helped eliminate many of the critically overcrowded conditions found in county correctional facilities in the

state, many problems remain.

(b) Numerous county jails and juvenile facilities throughout California are dilapidated and overcrowded.

(c) Capital improvements are necessary to protect life and safety of the persons confined or employed in jail facilities and to upgrade the health and sanitary conditions of those facilities.

(d) County jails are threatened with closure or the imposition of court supervision if health and safety deficiencies are not corrected immediately.

(e) Due to fiscal constraints associated with the loss of local property tax revenues, counties are unable to finance the construction of adequate jail and juvenile facilities.

(f) Local facilities for adults and juveniles are operating over capacity and the population of these facilities is still increasing. It is essential to the public safety that construction of new facilities proceed as expeditiously as possible to relieve overcrowding and to maintain public safety and security.

4496.52. As used in this title, the following terms have the following meanings:

(a) "Committee" means the 1990 County Correctional Facility Capital Expenditure and Juvenile Facility Finance Committee created pursuant to Section 4496.59.

(b) "Fund" means the 1990 County Correctional Facility Capital Expenditure and Juvenile Facility Bond Fund created pursuant to Section 4496.53.

(c) "County correctional facilities" means county jail facilities, including separate facilities for the care of mentally ill inmates and persons arrested because of intoxication, but does not include county juvenile facilities.

(d) "County juvenile facilities" means county juvenile halls, juvenile homes, ranches, or camps, and other juvenile detention facilities.

(e) "Youth center" means a facility where children, ages 6 to 17, inclusive, come together for programs and activities, including, but not limited to, recreation, health and fitness, delinquency prevention (such as antigang programs and programs fostering resistance to peer group pressures), counseling for problems such as drug and alcohol abuse and suicide, citizenship and leadership development, and youth employment.

(f) "Youth shelter" means a facility that provides a variety of services to homeless minors living on the street to assist them with their immediate survival needs and to help reunite them with their parents or, as a last alternative, to find a suitable home.

CHAPTER 2. PROGRAM

4496.53. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the 1990 County Correctional Facility Capital Expenditure and Juvenile Facility Bond Fund, which is

hereby created.

4496.54. (a) Moneys in the fund, up to a limit of one hundred fifty million dollars ($150,000,000), may be available for the construction, reconstruction, remodeling, and replacement of county correctional facilities, and the performance of deferred maintenance on county correctional facilities. However, deferred maintenance for facilities shall only include items with a useful life of at least 10 years.

(b) Moneys in the fund, up to a limit of fifty million dollars ($50,000,000), may be available for the construction, reconstruction, remodeling, and replacement of county juvenile facilities, and the performance of deferred maintenance on county juvenile facilities, but may only be used for the purpose of reducing overcrowding and eliminating health, fire, and life safety hazards.

(c) Moneys in the fund, up to a limit of twenty-five million dollars ($25,000,000), are hereby appropriated to the Department of the Youth Authority for the purpose of making awards to public or private nonprofit agencies or joint ventures, or a combination of those entities, for purposes of purchasing equipment and for acquiring, renovating, or constructing youth centers or youth shelters, as provided by the Youth Center and Youth Shelter Bond Act of 1988. Fifteen million dollars ($15,000,000) shall be available for youth centers. Ten million dollars ($10,000,000) shall be available for youth shelters. All money shall be distributed by the Department of the Youth Authority. However, any remaining money that has not been awarded under this subdivision within two years of the effective date of this title shall be available for both youth centers and youth shelters.

(d) Expenditure shall be made only if county matching funds of 25 percent are provided as determined by the Legislature, except that this requirement may be modified or waived by the Legislature where it determines that it is necessary to facilitate the expeditious and equitable construction of state and local correctional facilities.

4496.55. In order to be eligible to receive funds for the purposes specified in Section 4496.54 derived from the issuance of bonds under this title, a county shall do all of the following:

(a) Adopt a plan to prohibit the detention of all juveniles in county jails unless otherwise authorized by law.

(b) Demonstrate that it has adequate facilities for mentally ill inmates or detainees and for those persons arrested because of inebriation, or demonstrate that it has a plan for the provision of services to these persons.

(c) Demonstrate that it has utilized, to the greatest practicable extent, alternatives to jail incarceration.

4496.56. (a) If after the effective date of this title, the electors of a county adopt an initiative measure or approve a referendum measure stating their opposition to the location of, or expansion of, a state prison in the county, whether at a specified location or otherwise, or if the board of supervisors adopts a resolution or

ordinance stating its opposition to the location of, or expansion of, a state prison in the county, whether at a specified location or otherwise, that county shall not thereafter be eligible for the receipt of funds under this title until and unless that measure is repealed by the electors or the board of supervisors.

(b) Subdivision (a) shall not preclude the board of supervisors from informing the Department of Corrections of problems associated with a specific proposed facility or site in response to a specific request from the Department of Corrections or pursuant to Section 7004, and subdivision (a) shall not apply to such a response.

(c) Subdivision (a) shall not apply to any county which has two or more prisons which are planned and sited, under construction, or in operation on the effective date of this title.

4496.57. Money in the fund may only be expended for projects specified in this chapter as allocated in appropriations made by the Legislature.

CHAPTER 3. FISCAL PROVISIONS

4496.58. Bonds in the total amount of two hundred twenty-five million dollars ($225,000,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this title and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

4496.59. The bonds authorized by this title shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this title.

4496.60. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this title, the 1990 County Correctional Facility Capital Expenditure and Juvenile Facility Finance Committee is hereby created. For purposes of this title, the finance committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Governor, the Controller, the Treasurer, the Director of Finance, or their designated representatives. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Board of Corrections is designated the "board."

4496.61. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Section 4496.54 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

4496.62. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

4496.63. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 4496.42, appropriated without regard to fiscal years.

4496.64. For the purposes of carrying out this title, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section, plus any interest that the amounts would have earned in the Pooled Money Investment Account, shall be returned to the General Fund from money received from the sale of bonds for the purpose of carrying out this title.

4496.65. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

4496.66. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code.

4496.67. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out the provisions of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. The board shall execute such documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in

the fund to be allocated by the board in accordance with this chapter.

4496.68. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this title are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

4496.69. Notwithstanding any other provision of this chapter or the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and the use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 2. Section 1 of this act shall take effect upon the adoption by the voters of the County Correctional Facility Capital Expenditure and Juvenile Facility Bond Act of 1990, as set forth in Section 1 of this act.

SEC. 3. Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "County Correctional Facility Capital Expenditure and Juvenile Facility Bond Act of 1990," and in the same square under those words, the following in 8-point type: "This act provides for a bond issue of two hundred twenty-five million dollars ($225,000,000) to provide funds for the construction, reconstruction, remodeling, replacement, and deferred maintenance of county correctional facilities and county juvenile facilities." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

SEC. 4. (a) Notwithstanding Sections 3525, 3528, 3529, 3560, 3578, and 10218 of the Elections Code or any other provision of law, Section 1 of this act shall be submitted to the voters at the November 6, 1990, general election.

(b) The Secretary of State shall ensure the placement of Section 1 of this act on the November 6, 1990, general election ballot, in substantial compliance with any statutory time requirements

applicable to the submission of statewide measures to the voters at a statewide election.

(c) Notwithstanding Section 3531 of the Elections Code, the Attorney General shall prepare and return to the Secretary of State a ballot title for the bond act contained in Section 1 of this act within two days after the effective date of this act.

(d) Notwithstanding Section 3572 of the Elections Code, the Legislative Analyst shall prepare an impartial analysis of the bond act contained in Section 1 of this act within five days after the effective date of this act, and the analysis shall not be submitted to a review committee.

(e) The Secretary of State shall include, in the ballot pamphlet mailed pursuant to Section 3578 of the Elections Code, the information specified in Section 3570 of that code regarding the bond act provisions contained in Section 1 of this act.

If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding the bond act to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot pamphlet shall, notwithstanding Section 3578 of that code, be mailed at least 14 days before the election.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the County Correctional Facilities Capital Expenditure and Juvenile Facility Bond Act of 1990 contained in Section 1 of this act be included on the November 6, 1990, general election ballot, it is necessary that this act take effect immediately.

CHAPTER 580

An act to amend and repeal Section 5705.2 of, the Welfare and Institutions Code, relating to county health services.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 5705.2 of the Welfare and Institutions Code, as amended by Section 6 of Chapter 1106 of the Statutes of 1987, is amended to read:

5705.2. (a) It is the intent of the Legislature that the use of negotiated net amounts or rates, as provided in subdivision (b), be given preference in contracts for services under this division.

(b) Negotiated net amounts or rates may be used as the cost of services only in accordance with the following provisions:

(1) A negotiated net amount shall be determined by calculating the total budget for services for a program or a component of a program, less the amount of projected revenue. This net amount shall be negotiated between the provider of services and the county mental health program, and may be used by providers in contracts with the county. The negotiated net amount shall be submitted to the State Department of Mental Health prior to the commencement date of the contract. No contract shall become final until the State Department of Mental Health has approved the net amount. If approval is received after the commencement date of the contract, the approval shall be retroactive to the commencement date. Should the negotiated net amount be disapproved after the commencement date of the contract, the provider shall be compensated for work performed pursuant to the contract in accordance with Section 5705. Once the negotiated net amount is approved by the State Department of Mental Health, 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 all or part of the total county mental health program as described in the county Short-Doyle plan for each fiscal year to the extent that the governmental funding source participates in funding the county mental health program. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan or contract.

Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), 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 provider's expenditure or retention funds received pursuant to this paragraph.

(2) A negotiated rate is the payment for services delivered on a per unit of service basis. This rate shall be negotiated between the provider of services and the county mental health program. The negotiated rate shall be submitted to the State Department of Mental Health prior to the commencement date of the contract. No contract shall become final until the State Department of Mental Health has approved the rate. If approval is received after the commencement date of the contract, the approval shall be retroactive to the commencement date. Should the negotiated rate be disapproved after the commencement date of the contract, the

provider shall be compensated for work performed pursuant to the contract in accordance with Section 5705. Once this rate is approved by the State Department of Mental Health, all participating governmental funding shall be bound by that amount as the cost of providing that service for that county mental health program to the extent that the governmental funding source participates in funding the county mental health program. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), 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 provider's expenditure or retention of funds received pursuant to this paragraph.

(c) The director may negotiate net amount contracts between counties and the State Department of Mental Health in lieu of the Short-Doyle plan and budgets. Provisions of the contract shall include at least all of the following:

(1) Assurance of an adequate quality and quantity of services.

(2) Provision for access to services by patients residing within the contracting county.

(3) Statistical and cost reporting necessary to maintain the statewide mental health data base. For the purpose of verifying the conformance to provisions of the contract and the establishment of data necessary for subsequent contract negotiation, the State Department of Mental Health shall have access to financial and service records.

(4) A method for reimbursing the State Department of Mental Health for state hospital obligations incurred by the county.

(5) Assurance that citizen participation as described in Section 5604.2 will be achieved.

(6) A negotiated net amount contract shall not preclude the county from subcontracting to purchase all or part of the delivery of mental health services from noncounty providers.

(7) Assurance that all funds paid out by the state under this subdivision shall be used exclusively for the purpose of providing mental health services, which shall include, but not be limited to, defraying operating and capital costs.

Contracts entered into under this subdivision shall be subject to subdivisions (a) and (b), but 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.

(d) Counties that propose to negotiate rate or net amount contracts with the State Department of Mental Health pursuant to subdivision (c) in lieu of the Short-Doyle annual plan shall inform the Mental Health Advisory Board of its intentions in the following ways:

(1) Prior to opening of negotiations, the local program director shall submit to the board an outline of issues to be negotiated and the intended agreement on each issue.

(2) At each regular meeting of the board, during the period of negotiations, the local program director shall inform the board of progress on each issue and shall request the board's advice on how to further proceed on the negotiations.

(e) The county shall bear the financial risk in providing any and all mental health services to the population described and enumerated in the approved contract within the net amount.

(f) By September 1, 1990, the State Department of Mental Health shall submit to the Legislature an evaluation of the extent to which the objectives of negotiated net amount contracts have been met, including, but not limited to:

(1) Increased use of less restrictive treatment alternatives.

(2) Decreased rates compared to rates for similar services provided in counties that remain under the actual cost-reimbursement methodology.

(3) Quality and quantity of services and access to services equal to or better than the quality and quantity of services provided prior to negotiating the net amount contract.

(4) Reduction of state hospital utilization.

SEC. 2. Section 5705.2 of the Welfare and Institutions Code, as amended by Section 7 of Chapter 1106 of the Statutes of 1987, is repealed.

CHAPTER 581

An act to amend Sections 84102, 84200, 84211, and 84215 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 84102 of the Government Code is amended to read:

84102. The statement of organization required by Section 84101 shall include all of the following:

(a) The name, street address and telephone number, if any, of the

committee. In the case of a sponsored committee, the name of the committee shall include the name of its sponsor. Whenever a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee.

(b) In the case of a sponsored committee, the name, street address, and telephone number of each sponsor.

(c) The full name, street address, and telephone number, if any, of the treasurer and other principal officers.

(d) The full name and office sought by any candidate and the title and ballot number, if any, of any measure, which the committee supports or opposes as its primary activity. If a committee is primarily formed to support or oppose the qualification of a measure, it shall provide a description of the subject matter of the measure. A committee which does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether the candidates or measures have common characteristics such as a political party affiliation.

(e) A statement whether the committee is independent or controlled, and if it is controlled, the name of each candidate or committee by which it is controlled or with which it acts jointly.

(f) The disposition of surplus funds which will be made in the event of dissolution.

(g) Other information as required by the rules or regulations of the commission consistent with the purposes and provisions of this chapter.

SEC. 2. Section 84200 of the Government Code is amended to read:

84200. (a) Except as provided in paragraphs (1), (2), and (3), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than one hundred dollars ($100) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for any six-month period in which they have not made or received any contributions or made any expenditures.

(3) A judge who is not listed on the ballot for reelection to, or recall from, any elective office during a calendar year shall not file semiannual statements pursuant to this subdivision for any six-month period in that year if both of the following apply:

(A) The judge has not received any contributions.

(B) The only expenditures made by the judge during the calendar year are contributions from the judge's personal funds to other candidates or committees totaling less than one thousand dollars ($1,000).

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures during the six-month period before the closing date of the statements.

SEC. 3. Section 84211 of the Government Code is amended to read:

84211. Each campaign statement required by this article shall contain all of the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars ($100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars ($100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars ($100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:

(1) His or her full name.

(2) His or her street address.

(3) His or her occupation.

(4) The name of his or her employer or if self-employed, name of business.

(5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan.

(6) The cumulative amount of contributions.

(g) For each person, other than the filer, who is directly, indirectly, or contingently liable for repayment of a loan received during the period covered by the campaign statement, all of the following:

(1) His or her full name.

(2) His or her street address.

(3) His or her occupation.

(4) The name of his or her employer or, if self-employed, the name of the business.

(5) The amount of his or her maximum liability.

(h) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars ($100) or more.

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars ($100).

(j) For each person to whom an expenditure of one hundred dollars ($100) or more has been made during the period covered by the campaign statement, all of the following:

(1) His or her full name.

(2) His or her street address.

(3) The amount of each expenditure.

(4) A brief description of the consideration for which each expenditure was made.

(5) In the case of an expenditure which is a contribution, the date of the contribution; the cumulative amount of contributions made to a candidate, elected officer, or committee; the full name of the candidate; and the office and district for which he or she seeks nomination or election. In the case of a contribution in support of or opposition to a measure, the number or letter of the measure and the jurisdiction in which the measure or candidate is voted upon.

(6) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for an expenditure of one hundred dollars ($100) or more during the period covered by the campaign statement.

For purposes of subdivisions (h), (i), and (j) only, the terms "expenditure" or "expenditures" means any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

(k) In the case of a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes, the amount and source of any miscellaneous receipt.

(*l*) If a committee is listed pursuant to subdivision (f), (g), (j), (k), or (p), the number assigned to the committee by the Secretary of State shall be listed, or if no number has been assigned, the full name and street address of the treasurer of the committee.

(m) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures of one hundred dollars ($100) or more for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures of one hundred dollars ($100) or more for or against each such candidate or measure.

(n) In a campaign statement filed by a candidate who is a

candidate in both an election held on the first Tuesday after the first Monday in June and an election held on the first Tuesday after the first Monday in November, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a committee defined by subdivision (a) of Section 82013, the name, street address, and telephone number of the committee and of the committee treasurer. In the case of a committee defined by subdivision (b) or (c) of Section 82013, the name that the filer uses on campaign statements shall be the name by which the filer is identified for other legal purposes or any name by which the filer is commonly known to the public.

(p) If the campaign statement is filed by a candidate, the name, street address, and treasurer of any committee of which he or she has knowledge which has received contributions or made expenditures on behalf of his or her candidacy and whether the committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If the campaign statement is filed in connection with the qualification of a measure, it shall contain the information required by paragraphs (1) to (4), inclusive, of subdivision (j) for each person who has directly, indirectly, or through an intermediary received payments cumulatively totaling one hundred dollars ($100) or more for circulation of petitions to qualify a measure for the ballot.

(s) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (j) and 50 percent or more of the business entity is owned by a candidate or person controlling the committee, by an officer or employee of the committee, or by a spouse of any of these individuals, the committee's campaign statement shall also contain, in addition to the information required by subdivision (j), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(t) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (j), and a candidate or person controlling the committee, an officer or employee of the committee, or a spouse of any of these individuals is an officer, partner, consultant, or employee of the business entity,

the committee's campaign statement shall also contain, in addition to the information required by subdivision (j), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(u) The information required by Sections 84216 and 84216.5.

SEC. 4. Section 84215 of the Government Code is amended to read:

84215. All candidates, elected officers, committees, and proponents of state ballot measures or the qualifications of state ballot measures, except as provided in subdivision (e), shall file two copies of the campaign statements required by Section 84200 with the clerk of the county in which they are domiciled. A committee is domiciled at the address listed on its campaign statement unless it is domiciled outside California in which case its domicile shall be deemed to be Los Angeles County for the purpose of this section. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers, candidates for these offices, supreme court justices, their controlled committees, committees formed or existing primarily to support or oppose these candidates, elected officers, supreme court justices, or statewide measures, or the qualifications of state ballot measures, and all state general purpose committees and filers not specified in subdivisions (b) to (e), inclusive:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the Registrar-Recorder of Los Angeles County.

(3) Two copies with the Registrar of Voters of the City and County of San Francisco.

(b) Members of the Legislature or Board of Equalization, court of appeal justices, superior court judges, candidates for those offices, their controlled committees, and committees formed or existing primarily to support or oppose these candidates or officeholders:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the clerk of the county with the largest number of registered voters in the districts affected.

(c) Elected officers in jurisdictions other than legislative districts, Board of Equalization districts or appellate court districts which contain parts of two or more counties, candidates for these offices, their controlled committees, and committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one of these jurisdictions shall file the original and one copy with the clerk of the county with the largest number of registered voters in the jurisdiction.

(d) County elected officers, municipal court judges, candidates for such offices, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in any number of jurisdictions within one county, other than those specified in subdivision (e), and county general

purpose committees shall file the original and one copy with the clerk of the county.

(e) City elected officers, candidates for city office, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one city, and city general purpose committees shall file the original and one copy with the clerk of the city. These elected officers, candidates, and committees need not file with the clerk of the county in which they are domiciled.

(f) Notwithstanding the above, no committee, candidate, or elected officer shall be required to file more than the original and one copy, or two copies, of a campaign statement with any one county or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 or 84200.5 in places designated in subdivisions (d) and (e), it shall continue to file these statements in those places, in addition to any other places required by this title, until the end of the calendar year.

SEC. 5. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

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, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 582

An act to amend Sections 8272 and 52178.1 of, and to repeal Sections 8481 and 42302 of, the Education Code, to repeal and add Section 17570 of the Government Code, and to repeal Section 8 of Chapter 1725 of the Statutes of 1984, relating to the Legislative Analyst.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 8272 of the Education Code is amended to read:

8272. The Legislature recognizes that school districts which

utilized the child development permissive override tax and complied with the more stringent federal regulations have developed programs with higher costs than agencies which did not supplement their programs with the tax.

In order to reduce the disparity in program reimbursements, the Superintendent of Public Instruction shall implement a cost control plan commencing on October 1, 1980, after submission of the plan to the Joint Legislative Budget Committee. Agencies subject to the plan are those whose assigned reimbursement rates in the 1979–80 fiscal year exceeded the standard reimbursement rate. The plan shall be as follows:

(a) By October 1, 1980, the Superintendent of Public Instruction shall implement the staffing ratios specified by Section 8288 for programs subject to federal regulations and the staffing ratios pursuant to Title 5 of the California Administrative Code for programs subject to state regulations. Pursuant to Section 8287, the Superintendent of Public Instruction may allocate reimbursement to programs from the funding source whose associated staffing ratios and group size standards allow the maximum number of children to receive services at the minimum cost per average daily enrollment for each agency.

Each agency shall report to the Superintendent of Public Instruction by October 1, 1980, the extent to which the average daily enrollment can be increased in accordance with implementation of the staffing ratios and within the constraint of facility size with no resultant increase in the agency's annual contract reimbursement amount. First priority shall be to achieve an increase in the average daily enrollment in each facility with no additional state cost.

Agencies which are unable to increase their average daily enrollment to the level specified by the staffing ratios due to facility size constraints shall also report the reduction of staffing and program costs resulting from implementation of the ratios. The Superintendent of Public Instruction shall ensure that the agency's revised fiscal year 1980–81 Budget which accompanies the report reflects the cost reductions resulting from implementation of the new staffing ratios.

Upon implementation of the ratios, the Superintendent of Public Instruction shall recalculate the level of reimbursement per average daily enrollment based on any increase in average daily enrollment or decrease in the agency's cost as verified by the superintendent, or both. The superintendent shall submit to the Joint Legislative Budget Committee previous and recalculated reimbursement and average daily enrollment levels for each agency. The 1982–83 contract for reimbursement of child care services shall reflect changes resulting from implementation of the staffing ratios.

Programs with collective bargaining agreements in existence on June 30, 1980, which specify staffing ratios and prevent the implementation of ratios consistent with this section may delay, if necessary, implementation of the ratios until the expiration of the

agreement, or June 30, 1981, whichever is earlier.

Agencies which are unable to expand their average daily enrollment to the maximum allowable under implementation of the staffing ratios shall reduce their staffing to a level consistent with the ratios through staff attrition, including transfer to district programs other than the child development program. Agencies whose facility size limits them solely to reduction in staffing levels to achieve implementation of the staffing ratios may be granted a waiver by the Superintendent of Public Instruction to extend the time for implementation of this section. However, no extension shall be granted beyond July 1, 1982.

Any savings which result to the state from implementation of this section shall be utilized for expansion of child care services at or below the standard reimbursement rate. Savings may also be utilized to increase the assigned reimbursement rates of those agencies below the standard reimbursement rate which the Superintendent of Public Instruction determines, on a case-by-case basis, to be necessary and fiscally appropriate, and which would otherwise result in the agency's termination of its child development program, or a substantial reduction in the quality of the program.

(b) Agencies subject to this cost control plan that have initiated administrative policies implementing compliance or that have complied with subdivision (a) shall be eligible for allocation of the cost-of-living funding provided by the Budget Act as specified in Section 23.5 of Chapter 798 of the Statutes of 1980.

(c) During the 1981–82 fiscal year, the Department of Education, after submission of a plan to the Joint Legislative Budget Committee, shall study the type, scope, and level of the elements of cost of all the programs subject to this cost control plan and of a sample of other state-subsidized child care and development services programs. This study shall establish standardized definitions of the elements of costs, particularly direct service costs, administrative costs, indirect costs, clearly specified labor costs, the cost of providing services to children with special needs, and supplemental service costs. Based upon this study, the department shall adopt accounting procedures to secure reliable reports of the cost of such elements, and report recommendations to the Legislature pursuant to subdivision (f).

(d) The Department of Education shall review its regulations, guidelines, and monitoring procedures of all child care and development programs to assure that programs are provided maximum flexibility to reduce program costs so long as children receive quality care and services. Flexibility may be provided in areas such as, but not limited to, scheduling of staff, encouraging referrals for services, and waiving some program elements so that different services are provided to children receiving after-school care compared to those services required for infants and preschool age children.

(e) The State Department of Education, after submitting its plan to the Joint Legislative Budget Committee, and subject to the

provisions of Section 8287, may utilize federal funds for certain program types in order to maximize provision of the child care and developmental services.

(f) For the 1982–83 fiscal year and subsequent fiscal years, the State Department of Education shall recommend to the budget committees of the Legislature: (1) limitations on, or expansion of, the type and level of reimbursement (in terms of cost per average daily enrollment or percentage of total agency budget) of various cost elements identified in the study in subdivision (c), (2) continuation of the provision of cost of living as specified by subdivision (b), and (3) recommendations for reimbursement above the standard reimbursement rate.

SEC. 2. Section 8481 of the Education Code is repealed.

SEC. 3. Section 42302 of the Education Code is repealed.

SEC. 4. Section 52178.1 of the Education Code is amended to read:

52178.1. Teachers who are on waiver as of July 1, 1984, or whose waiver has expired between June 30, 1983, and September 1, 1984, shall be given a one-year extension, renewable for one year, beyond the fourth year on waiver, in which to acquire competence in the three areas required by Section 44253.5, if the teacher has (1) demonstrated competence in culture and methodology and (2) continued enrollment in a program for the study of language which is approved by the Commission on Teacher Credentialing or continued enrollment in a course for the study of language which is established or approved by the State Department of Education, or a program which meets the standards and criteria prescribed by the department under this section.

These certifications shall be provided to the State Department of Education on an annual basis for each of the six years the teacher is on waiver, as necessary.

In lieu of these certifications of competence in culture or methodology, as required by subdivision (b) or (c) of Section 44253.5, the district may submit a statement from a bilingual teacher training institution approved by the Commission on Teacher Credentialing that the coursework for that competence has been completed. To receive a bilingual-crosscultural certificate of competence, an applicant shall pass the examinations for all three areas of competence required by Section 44253.5.

The Commission on Teacher Credentialing shall contract with approved assessor agencies to assess separately each of the three competencies required in Section 44253.5. The commission shall arrange for assessments if approved assessor agencies cannot provide them. However, the commission may directly assess these competencies if the commission has been unable to arrange an assessment, and if a staff member is qualified to perform the assessment.

SEC. 5. Section 17570 of the Government Code is repealed.

SEC. 6. Section 17570 is added to the Government Code, to read:

17570. The Legislative Analyst shall review each unfunded statutory or regulatory mandate for which claims have been approved by the Legislature pursuant to a claims bill during the preceding fiscal year. Any recommendations by the Legislative Analyst to eliminate or modify the mandates shall be contained in the annual analysis of the Budget Bill prepared by the Legislative Analyst.

SEC. 7. Section 8 of Chapter 1725 of the Statutes of 1984 is repealed.

CHAPTER 583

An act to amend Sections 3057.5 and 3057.6 of the Business and Professions Code, relating to optometry.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 3057.5 of the Business and Professions Code, as amended by Section 1 of Chapter 1473 of the Statutes of 1987, 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 the examination if, in the opinion of the board, the course of instruction at the institution issuing him or her 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, 1994, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends that date.

SEC. 2. Section 3057.5 of the Business and Professions Code, as added by Section 2 of Chapter 1473 of the Statutes of 1987, 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) This section shall become operative on January 1, 1994.

SEC. 3. Section 3057.6 of the Business and Professions Code is amended 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, 1994, and as of that date, is repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends that date.

CHAPTER 584

An act to amend Sections 447 and 1021.1 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 447 of the Code of Civil Procedure is amended to read:

447. (a) The signature of an attorney or party constitutes a certificate by him or her that he or she has read the pleading, motion, or other paper; that to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this section, the court, upon motion or

upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee. Sanctions may be imposed only after notice and opportunity to be heard. An order imposing sanctions shall be in writing, and shall recite in detail the circumstances justifying sanctions.

(b) This section shall apply only in Riverside County and San Bernardino County. The Legislature finds and declares that, in order to assess the impact of this section on a limited basis before making it applicable on a statewide basis, it is necessary for this section to be applicable for a limited period of time in those counties.

(c) No sanction may be imposed pursuant to this section in any of the following instances:

(1) Against a party who is proceeding in forma pauperis or a party whom the court has found not to have the financial ability to pay fees or whom the court has found would suffer an unreasonable financial hardship if ordered to pay fees.

(2) For or against any party with respect to any cause of action under which an award for reasonable attorney's fees is authorized or required by any other federal or California statute.

(3) For or against any party in any action in which one or more of the plaintiffs seek to proceed as a class under Section 382.

(d) This section shall only be in effect from July 1, 1988, until January 1, 1993, and on that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1993, deletes or extends that date.

SEC. 2. Section 1021.1 of the Code of Civil Procedure is amended to read:

1021.1. (a) Reasonable attorney's fees, may be awarded in an amount to be determined in the court's discretion, to a party to any civil action as provided by this section, and that award shall be made upon notice and motion by a party and shall be an element of the costs of suit.

(b) A party may be entitled, in the discretion of the court, to an award of attorney's fees under this section if all of the following conditions are met:

(1) The party has made an offer for judgment under Section 998.

(2) That offer was not accepted within the time provided in Section 998.

(3) The party to whom the offer was made thereafter failed to obtain a more favorable judgment.

The party making the offer shall be entitled to attorney's fees only for legal services rendered after the date of the offer.

(c) In exercising its discretion to award attorney's fees the court shall consider the following factors:

(1) The reasonableness or lack thereof, of a party's failure to accept an offer for judgment under Section 998 in light of the facts

known to the party at the time, of which, in light of all of the circumstances, should have been known to the party. Reasonableness shall be determined by a consideration of at least the following matters:

(A) The then apparent merit or lack of merit in the claim that was the subject of the action.

(B) The closeness of the questions of fact and law at issue.

(C) Whether the offeror has unreasonably refused to furnish information necessary to evaluate the reasonableness of the offer.

(D) Whether the action was in the nature of a "test case," presenting questions of far-reaching importance affecting nonparties.

(E) The relief that might reasonably have been expected if the claimant should prevail.

(F) The amount of the additional delay, cost, and expense that the offeror reasonably would be expected to incur if the litigation should be prolonged.

(G) Those other matters that the court may deem relevant in the interest of justice.

(2) The amount of damages and other relief sought and the results obtained for the client.

(3) The efforts made by the parties or the attorneys to settle the controversy.

(4) The existence of any bad faith or abuse of legal procedure by the parties or the attorneys.

(d) In exercising its discretion to determine the amount of attorney's fees to be awarded, the court shall consider the following factors, except that in no event shall the amount awarded exceed a reasonable fee for the services actually rendered.

(1) Customary fees in the community in which the action or proceeding is pending charged by attorneys with similar experience or expertise.

(2) The time and labor reasonably required to be spent by the attorney or attorneys.

(3) The experience and ability of the attorneys generally within the profession and also with respect to the action or proceeding.

(4) The novelty and difficulty of the questions involved and the skill required to perform the services properly.

(5) The extent to which the acceptance of the particular matter imposes extraordinary burdens on the attorney or attorneys (A) by way of precluding other employment, (B) by the time limitations imposed by the client, or (C) by the circumstances.

(6) Whether the fee is fixed or contingent.

(7) Those other factors that the court may deem relevant in the interest of justice, including any of the factors described in subdivision (c).

(e) Nothing in this section shall be construed to repeal or modify any other statutory provision for the award of attorney's fees or to diminish any express or implied contractual right which a party to

a civil action may otherwise have to obtain an award of attorney's fees for the prosecution or defense of an action.

(f) No attorney's fees shall be awarded pursuant to this section in any of the following instances:

(1) Against a party who is proceeding in forma pauperis or a party whom the court has found not to have the financial ability to pay fees or who would suffer an unreasonable financial hardship if ordered to pay fees.

(2) For or against any party with respect to any cause of action under which an award for reasonable attorney's fees is authorized or required by any other federal or California statute.

(3) For or against any party with respect to any cause of action or proceeding commenced or prosecuted under Title 7 (commencing with Section 1230.010) of Part 3.

(4) For or against any party in any action in which one or more of plaintiffs seek to proceed as a class under Section 382.

(5) For or against any party as to any cause of action the gravamen of which is personal injury, wrongful death, or injunctive relief.

(g) The determination under this section shall be made after the final disposition of the action.

(h) This section shall apply only in Riverside County and San Bernardino County. The Legislature finds and declares that, in order to assess the impact of this section on a limited basis before making it applicable on a statewide basis, it is necessary for this section to be applicable for a limited period of time in those counties.

(i) This section shall only be in effect from July 1, 1988, until January 1, 1993, and on that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1993, deletes or extends that date.

CHAPTER 585

An act to amend Section 27315 of the Vehicle Code, relating to safety belts.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 27315 of the Vehicle Code is amended to read:

27315. (a) The Legislature finds that a mandatory seatbelt law will contribute to reducing highway deaths and injuries by encouraging greater usage of existing manual seatbelts, that automatic crash protection systems which require no action by vehicle occupants offer the best hope of reducing deaths and injuries, and that encouraging the use of manual safety belts is only a partial

remedy for addressing this major cause of death and injury. The Legislature declares that the enactment of this section is intended to be compatible with support for federal safety standards requiring automatic crash protection systems and should not be used in any manner to rescind federal requirements for installation of automatic restraints in new cars.

(b) This section shall be known and may be cited as the Private Passenger Motor Vehicle Safety Act.

(c) As used in this section, "private passenger motor vehicle" means any passenger vehicle as defined in Section 465 and any motortruck as defined in Section 410 of less than 6,001 pounds unladen weight, but "private passenger motor vehicle" does not include a motorcycle as defined in Section 400.

(d) No person shall operate a private passenger motor vehicle on a highway unless that person and all passengers four years of age or over are restrained by a safety belt, except that the operator of a taxicab, as defined in Section 27908, or the operator of a limousine for hire, or the operator of an authorized emergency vehicle, as defined in subdivision (a) of Section 165, shall not operate the taxicab, limousine for hire, or authorized emergency vehicle unless the operator and any passengers four years of age or over in the front seat are restrained by a safety belt.

(e) No person 16 years of age or over shall be a passenger in a private passenger motor vehicle on a highway unless that person is restrained by a safety belt.

(f) Every owner of a private passenger motor vehicle, including every owner or operator of a taxicab, as defined in Section 27908, or a limousine for hire, operated on a highway shall maintain safety belts in good working order for the use of occupants of the vehicle. The safety belts shall conform to motor vehicle safety standards established by the United States Department of Transportation. This subdivision does not, however, require installation or maintenance of safety belts where not required by the laws of the United States applicable to the vehicle at the time of its initial sale.

(g) This section does not apply to a passenger or operator with a physically disabling condition or medical condition which would prevent appropriate restraint in a safety belt, if the condition is duly certified by a licensed physician and surgeon or by a licensed chiropractor who shall state the nature of the condition, as well as the reason the restraint is inappropriate. This section also does not apply to a peace officer, as defined in Section 830 of the Penal Code, when in an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165, or to any passenger in any seat behind the front seat of an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165 operated by the peace officer, unless required by the agency employing the peace officer.

(h) Notwithstanding subdivision (a) of Section 42001, any violation of subdivision (d), (e), or (f) is an infraction punishable by

a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than twenty dollars ($20) for a first offense, and a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than fifty dollars ($50) for each subsequent offense. In lieu of the fine and any penalty assessment or court costs, the court, pursuant to Section 42005, may order that a person convicted of a first offense attend a school for traffic violators or a driving school in which the use of safety belts is demonstrated.

(i) For any violation of subdivision (d), (e), or (f), in addition to the fines provided for pursuant to subdivision (h) and the penalty assessments provided for pursuant to Section 1464 of the Penal Code, an additional penalty assessment of two dollars ($2) shall be levied for any first offense, and an additional penalty assessment of five dollars ($5) shall be levied for any subsequent offense.

All moneys collected pursuant to this subdivision shall be utilized in accordance with Section 1464 of the Penal Code.

(j) In any civil action, a violation of subdivision (d), (e), or (f) or information of a violation of subdivision (h) shall not establish negligence as a matter of law or negligence per se for comparative fault purposes, but negligence may be proven as a fact without regard to the violation.

(k) Notwithstanding Section 40300 or any other provision of law, a peace officer shall not stop or seize a person for a violation of subdivision (d), (e), or (f), nor arrest or issue a notice to appear or notice to correct for a violation of those subdivisions if the officer has no other cause to stop or seize the person other than a violation of subdivision (d), (e), or (f).

(*l*) If the United States Secretary of Transportation fails to promulgate safety standards for manual safety belt systems by September 1, 1989, no private passenger motor vehicle manufactured after that date for sale or sold in this state shall be registered unless it contains a manual safety belt system which meets the performance standards applicable to automatic crash protection devices promulgated by the Secretary of Transportation pursuant to Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. Sec. 571.208) as in effect on January 1, 1985.

(m) Each private passenger motor vehicle offered for original sale in this state which has been manufactured on or after September 1, 1989, shall comply with the automatic restraint requirements of Section S4.1.2.1 of Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. Sec. 571.208), as published in Volume 49 of the Federal Register, No. 138, page 29009. Any automobile manufacturer who sells or delivers a private passenger motor vehicle subject to the requirements of this subdivision who fails to comply with this subdivision shall be punished by a fine of not more than five hundred dollars ($500) for each sale or delivery of a noncomplying private passenger motor vehicle.

(n) Compliance with subdivision (*l*) or (m) by a manufacturer

shall be made by self-certification in the same manner as self-certification is accomplished under federal law.

(o) This section does not apply to a person actually engaged in delivery of newspapers to customers along the person's route if the person is restrained by a safety belt prior to commencing and subsequent to completing delivery on the route.

(p) This section does not apply to a person actually engaged in collection and delivery activities as a rural delivery carrier for the United States Postal Service if the person is restrained by a safety belt prior to stopping at the first box and subsequent to stopping at the last box on the route.

(q) Subdivisions (d), (e), (f), (g), and (h) shall become inoperative immediately upon the date that the Secretary of the United States Department of Transportation, or his or her delegate, determines to rescind the portion of the Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. Sec. 571.208) which requires the installation of automatic restraints in new private passenger motor vehicles; provided, however, that those subdivisions shall not become inoperative if the secretary's decision to rescind Standard No. 208 is not based, in any respect, on the enactment or continued operation of those subdivisions.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 586

An act to repeal Sections 66784.4 and 66786.9 of the Government Code, to amend Sections 10507.5, 10860, 12153, 12155, 12164.5, 12183.5, 12225, and 12301 of the Public Contract Code, and to amend Section 45303 of, to repeal Sections 40100, 40115, 40121, 40170, 40172, 40190, 40191, 40192, 40194, and 40201 of, to repeal and add Sections 40110, 40122, 40160, 40180, and 40200 of, and to add Article 3 (commencing with Section 42380) to Chapter 6 of Part 3 of Division 30 of, the Public Resources Code, relating to solid waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 66784.4 of the Government Code, as amended by Chapter 1247 of the Statutes of 1989, is repealed.

SEC. 2. Section 66786.9 of the Government Code, as added by Chapter 498 of the Statutes of 1989, is repealed.

SEC. 3. Section 10507.5 of the Public Contract Code, as added by Chapter 1094 of the Statutes of 1989, is amended to read:

10507.5. It is the intent of the Legislature to encourage the procurement of recycled paper products by the University of California by developing guidelines to encourage the procurement of recycled paper products where suitable for the uses intended and where the quality is equal and the price is equal or less than nonrecycled paper products. It is also the intent of the Legislature that the regents report annually to the Legislature, the Governor, and the California Integrated Waste Management Board commencing January 1, 1991, on the percentage of the total dollar amount of recycled paper products purchased or procured under this article.

SEC. 4. Section 10860 of the Public Contract Code, as added by Chapter 1094 of the Statutes of 1989, is amended to read:

10860. (a) The trustees shall revise the procedures and specifications for purchases of paper products to give preference, wherever feasible, to the purchase of paper products containing recycled paper products pursuant to Section 10855.

(b) The trustees shall give purchase preference to recycled paper products when both of the following apply:

(1) The products can be substituted for, and cost no more than, nonrecycled paper products.

(2) The products meet all applicable standards and regulations.

(c) To encourage the use of postconsumer waste, the trustees' specifications shall require recycled paper product contracts to be awarded to the bidder whose paper product contains the greater percentage of postconsumer waste if the fitness and quality and price meet the requirements in Sections 10855 and 10860.

(d) The trustees shall set the following goals for the purchasing of recycled paper products:

(1) By January 1, 1992, at least 35 percent of the total dollar amount of paper products purchased or procured by the trustees shall be purchased as a recycled paper product.

(2) By January 1, 1994, at least 40 percent of the total dollar amount of paper products purchased or procured by the trustees shall be purchased as a recycled paper product.

(3) By January 1, 1996, at least 50 percent of the total dollar amount of paper products purchased or procured by the trustees shall be purchased as a recycled paper product.

If at any time a goal has not been met, the trustees and the Department of General Services, in consultation with the California Integrated Waste Management Board, shall review procurement policies and shall make recommendations for immediate revisions to ensure that each goal is met. Revisions include, but are not limited to, providing a purchasing preference and altering the goals. The trustees and the Department of General Services, in consultation with the board, shall present its conclusions and recommendations on these revisions of procurement policies to the Legislature and the Governor in the department's annual report pursuant to Section 12225.

SEC. 5. Section 12153 of the Public Contract Code, as added by Chapter 1094 of the Statutes of 1989, is amended to read:

12153. The Legislature finds and declares all of the following:

(a) It is the policy of the state to conserve and protect resources for future citizens as well as the current people of the state.

(b) It is in the best interest that the state alter its perception of solid waste to instead look upon this waste as resources which can be recovered and reused.

(c) It is in the best interest of reducing the increasing burden on communities disposing of the state's solid waste for the state to take a role in developing an integrated state solid waste management policy, which includes source reduction, recycling, composting, market development, incineration, and landfills. Since recycling is a necessary component, the state shall encourage the use of recycled products to ensure that the state's industries have sufficient and adequate markets for products regeneratively utilizing the state's solid waste as recycled resources.

(d) It is the policy of the state to encourage the expansion of businesses located in California and, to whatever extent possible, to look favorably on California businesses in the recycling industry, which includes, but is not limited to, those California businesses that manufacture, distribute, or act as brokers for recycled products.

(e) Market development is the key to moving beyond the uneven collection of recyclable materials to stable resource recovery and reuse. Because of existing local collection programs, significant quantities of recycled resources such as the following are today available for purchase: fine grades of paper, high-quality paper products, plastics, retreaded automobile tires, rerefined lubricating oil, reused automotive parts, reclaimed solvents, recycled asphalt, recycled concrete, carpet or geotextiles composed of recycled plastics, and compost and co-compost products.

(f) In making these findings, the Legislature declares that the policy and intent of this chapter is to set an example for the state and nation to encouarge the purchase of products utilizing recycled resources.

(g) It is the intent of the Legislature, whenever economically feasible and as markets allow, to continually expand the policies of the state to utilize recycled resources in the daily operations of the

state. This includes, but is not limited to, the procurement and purchase of recycled materials, the use of recycled resources in the performance of a service or project for the state, the purchase of equipment used for the collection and sale of waste materials generated by the state.

(h) It is the intent of the Legislature that the Department of General Services work with all state departments, agencies, the Legislature, the California Integrated Waste Management Board, and the Department of Conservation to draft, establish, and implement policies which ensure the procurement and use of recycled resources.

(i) It is also the intent of the Legislature to encourage local public agencies and private companies to adopt policies to maximize the use of recycled resources.

SEC. 6. Section 12155 of the Public Contract Code, as added by Chapter 1094 of the Statutes of 1989, is amended to read:

12155. As used in this chapter, the following definitions shall apply:

(a) "Department" means the Department of General Services.

(b) "Director" means the Director of General Services.

(c) "Procuring agency" means the Department of General Services and any other state department or agency having delegated procurement authority granted pursuant to Section 10333 with an annual total dollar limit above one million dollars ($1,000,000) as prescribed by the Office of Procurement within the Department of General Services.

(d) "Board" means the California Integrated Waste Management Board, as defined pursuant to Section 40110 of the Public Resources Code.

SEC. 7. Section 12164.5 of the Public Contract Code, as added by Chapter 1094 of the Statutes of 1989, is amended to read:

12164.5. (a) It is the intent of the Legislature that for the current state waste paper collection program, the department, in consultation with the California Integrated Waste Management Board, shall provide participating locations with public information awareness and training to state and legislative employees. Additionally, the department, in consultation with the California Integrated Waste Management Board, shall provide training for personnel, including but not limited to, state and buildings and grounds personnel, responsible for the collection of waste materials. This training shall include, but is not limited to, educating and training the personnel concerning the separation and collection of recyclable materials.

(b) It is also the intent of the Legislature that the department continue the current state waste paper collection program and use this program as a model to develop a plan for other waste materials generated by state and legislative employees.

(c) It is also the intent of the Legislature that the department, in consultation with the California Integrated Waste Management

Board, shall submit a new recycling plan, which includes but is not limited to, the collection and sale of waste materials generated by state and legislative employees. This plan shall be submitted to the appropriate legislative policy committees on or before August 31, 1990. The plan may be phased in utilizing those office facilities and collecting those waste materials most conducive to operation of a source separation program, but shall be fully implemented by June 1, 1991.

SEC. 8. Section 12183.5 of the Public Contract Code, as added by Chapter 1094 of the Statutes of 1989, is amended to read:

12183.5. The California Integrated Waste Management Board shall conduct with each state department and agency which purchases co-compost or compost products, regular fertilizer, or soil amendment products, including those state departments specified in Section 12183, testing of co-compost products produced at testing sites selected by the California Integrated Waste Management Board to determine whether the products meet the requirements specified in Sections 12181 and 12182 and any applicable state standards and regulations determined pursuant to Section 12183.

On or before January 1, 1989, the Legislative Analyst shall evaluate the results of the tests required by this section and report its findings to the Legislature as an interim report. The final report is due on January 1, 1990. The private contractor shall provide the necessary products by January 1, 1989. If the products are delayed, the report deadline shall be delayed by the same amount of time.

The private contractor which constructs and operates the co-compost facility on the permanent site selected by the City of Los Angeles shall agree to provide the necessary co-compost products and agree in advance to pay with nonstate funds an amount to the California Integrated Waste Management Board and each state department or agency for any costs that the department or agency incurs in testing products pursuant to this section and shall pay the Legislative Analyst for costs incurred in evaluating test results.

SEC. 9. Section 12225 of the Public Contract Code, as added by Chapter 1094 of the Statutes of 1989, is amended to read:

12225. On or before August 31, 1991, and every year thereafter, the department, in consultation with the board, shall prepare a report to the Legislature describing the purchase and procurement of products purchased by the state before and after January 1, 1990. The report shall detail as much as possible, the amount of recycled products utilized by state contractors before and after the enactment of this chapter. The report shall include, but not be limited to, the following:

(a) Listed by department, the total dollar amounts, volume, and number of contracts of individual products purchased by the department and any other agency having delegated procurement authority pursuant to Section 10333.

(b) Total dollar amounts, volume, and number of contracts of each product purchased by the state, which includes the Legislature,

the California State University, and the University of California systems.

(c) A list of individual recycled products purchased pursuant to Sections 10507.5 and 10860, inclusive, this chapter and Chapter 5 (commencing with Section 12300).

(d) The total dollar amounts, volume, and number of contracts of individual products, whether recycled or nonrecycled, purchased by the state.

(e) The total dollar amounts, volume, and number of contracts of recycled products including recycled paper and compost products purchased pursuant to Sections 10507.5 and 10860, inclusive, this chapter, and Chapter 5 (commencing with Section 12300).

(f) The total dollar amount and volume of compost and co-compost products utilized by the state pursuant to Section 12183 or any other state or local program.

(g) For recycled paper products purchased by procuring agencies, the total number of contracts, dollar amounts, and volume of those contracts that were eligible for the preference pursuant to Section 12162.

(h) For each recycled product, including recycled paper and compost products, the total dollar amounts, volume, and number of contracts that were eligible a preference or a combination thereof pursuant to Sections 4533, 7095, and 14838 of the Government Code.

(i) Total number of bids for each product listed in Section 12157, whether or not a contract was awarded the bid.

(j) The range of dollar amounts for bids on procurement contracts which include, but is not limited to, contracts for the procurement of individual recycled products listed in Section 12157.

(k) For each waste material, total revenue dollars and volume generated from the state waste materials collection program pursuant to Section 12165.

(*l*) Recommendations to the Legislature as to revisions of the percentage amounts contained in the secondary waste and postconsumer waste definitions for individual products which will result in greater procurement of recycled products composed of recycled resources that would otherwise be disposed of as solid waste in the state's disposal facilities.

(m) Recommendations on specific products available containing secondary postconsumer waste which are procured by the state, used in the performance of a service or project for the state, and used in state construction contracts.

These products shall be recommended as candidates for the application of the recycled paper product preference described in Section 12162.

(n) The California Integrated Waste Management Board, in consultation with the department, shall identify those products purchased in either large volumes or high dollar amounts by the state which are available as a recycled product. The board shall include this list in the department's annual report and shall revise this list as

products purchased by the state become feasibly available in recycled form.

SEC. 10. Section 12301 of the Public Contract Code, as added by Chapter 1094 of the Statutes of 1989, is amended to read:

12301. The following definitions govern the interpretation of this chapter:

(a) "Department" means the Department of General Services.

(b) "Board" means the California Integrated Waste Management Board, as defined pursuant to Section 40110 of the Public Resources Code.

(c) "Recycled paper product" means all paper and woodpulp products containing postconsumer waste and secondary waste materials. "Postconsumer waste" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary waste" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer waste, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process. "Recycled paper product" means a paper product with not less than 50 percent of its total weight consisting of secondary and postconsumer waste with not less than 10 percent of its total weight consisting of postconsumer waste.

(d) "Recycled product" means all materials, goods, and supplies, no less than 50 percent of the total weight of which consists of secondary and postconsumer waste with not less than 10 percent of its total weight consisting of postconsumer waste. A recycled product shall include any product which could have been disposed of as solid waste having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of its form. "Postconsumer waste" means a finished material which would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes. "Secondary waste" means fragments of finished products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes postconsumer waste, but does not include excess virgin resources of the manufacturing process.

SEC. 11. Section 40100 of the Public Resources Code, as added by Chapter 1096 of the Statutes of 1989, is repealed.

SEC. 12. Section 40110 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 13. Section 40110 of the Public Resources Code, as added by Chapter 1096 of the Statutes of 1989, is repealed.

SEC. 14. Section 40110 is added to the Public Resources Code, to read:

40110. "Board" means the California Integrated Waste

Management Board.

SEC. 15. Section 40115 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 16. Section 40121 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 17. Section 40122 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 18. Section 40122 of the Public Resources Code, as added by Chapter 1096 of the Statutes of 1989, is repealed.

SEC. 19. Section 40122 is added to the Public Resources Code, to read:

40122. "Disposal site" or "site" includes the place, location, tract of land, area, or premises in use, intended to be used, or which has been used for the landfill disposal of solid wastes. "Disposal site" includes solid waste landfill, as defined in Section 46027.

SEC. 20. Section 40160 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 21. Section 40160 of the Public Resources Code, as added by Chapter 1096 of the Statutes of 1989, is repealed.

SEC. 22. Section 40160 is added to the Public Resources Code, to read:

40160. "Operator" means the person to whom the approval to operate a disposal site, transfer or processing station, or collection system is granted.

SEC. 23. Section 40170 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 24. Section 40172 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 25. Section 40180 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 26. Section 40180 of the Public Resources Code, as added by Chapter 1096 of the Statutes of 1989, is repealed.

SEC. 27. Section 40180 is added to the Public Resources Code, to read:

40180. "Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. "Recycling" does not include transformation, as defined in Section 40201.

SEC. 28. Section 40190 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 29. Section 40191 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 30. Section 40192 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 31. Section 40194 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 32. Section 40200 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 33. Section 40200 of the Public Resources Code, as added by Chapter 1096 of the Statutes of 1989, is repealed.

SEC. 34. Section 40200 is added to the Public Resources Code, to read:

40200. (a) "Transfer or processing station" or "station" includes those facilities utilized to receive solid wastes, temporarily store, separate, convert, or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport, and those facilities utilized for transformation.

(b) "Transfer or processing station" or "station" does not include any of the following:

(1) A facility, whose principal function is to receive, store, separate, convert, or otherwise process in accordance with state minimum standards, manure.

(2) A facility, whose principal function is to receive, store, convert, or otherwise process wastes which have already been separated for reuse and are not intended for disposal.

(3) The operations premises of a duly licensed solid waste handling operator who receives, stores, transfers, or otherwise processes wastes as an activity incidental to the conduct of a refuse collection and disposal business in accordance with regulations adopted pursuant to Section 43309.

SEC. 35. Section 40201 of the Public Resources Code, as added by Chapter 1095 of the Statutes of 1989, is repealed.

SEC. 36. Article 3 (commencing with Section 42380) is added to Chapter 6 of Part 3 of Division 30 of the Public Resources Code, to read:

Article 3. Plastic Waste Recycling

42380. On or before January 1, 1991, the board shall prepare and submit to the Governor and the Legislature a report on the use, disposal, and recyclability of plastic materials and containers not subject to Division 12.1 (commencing with Section 14500) of the Public Resources Code. The report shall include, but not be limited to, all of the following:

(a) A description of barriers to plastics collection, separation, and recycling for reuse.

(b) A description and comparison of current methods used in the state, other states, and other countries to reduce the use of, and recycle, plastic materials currently disposed of in the state, and recommendations on how the state might improve its current programs to reduce or recycle plastic materials.

(c) A description of programs under development and potentially available for plastics collection and recycling.

(d) A description of current domestic and foreign markets for recycled plastic materials, and recommendations on how the state

could improve the marketability of these materials.

SEC. 37. Section 45303 of the Public Resources Code is amended to read:

45303. If any board or agency specified in Section 45301 receives a complaint concerning a solid waste disposal site and the board or agency determines that it is not authorized to take action concerning the complaint, the board or agency shall refer the complaint within 10 days of receipt to another state agency which it determines is authorized to take action.

SEC. 38. Any section of any act enacted by the Legislature during the 1990 calendar year, which takes effect on or before January 1, 1991, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

SEC. 39. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Chapter 1095 of the Statutes of 1989 recodified substantially all of the statutes relating to solid waste into the Public Resources Code and prescribed a new California Integrated Waste Management Board to administer the new law. That statute contained a clause subordinating its repeal of provisions of Title 7.2 (commencing with Section 66700) of the Government Code to any other act which became effective on or before January 1, 1990. Because of the conflicts and potential confusion caused by many other enactments which supersede the recodification, it is necessary that this act, which reconciles some of the provisions of other statutes with the recodification act, take effect immediately.

CHAPTER 587

An act to amend Sections 801.5 and 803 of the Penal Code, relating to insurance.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 801.5 of the Penal Code is amended to read:

801.5. Notwithstanding Section 801 or any other provision of law,

prosecution for a violation of Section 1871.1 of the Insurance Code shall be commenced within three years after discovery of the commission of the offense.

SEC. 2. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or Section 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) Felony insurance fraud in violation of Section 548 of this code or Section 1871.1 of the Insurance Code.

(7) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(8) A violation of Section 22430 of the Business and Professions Code.

(9) A violation of Section 10690 of the Health and Safety Code.

(10) 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, under Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300) of Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of the Health and Safety Code, or under Section 386.

(f) Notwithstanding any other limitation of time described in this section, a criminal complaint may be filed within one year of the date of a report to a responsible adult or agency by a child under 17 years

of age that the child is a victim of a crime described in Section 261, 286, 288, 288a, or 289.

For purposes of this subdivision, a "responsible adult" or "agency" means a person or agency required to report pursuant to Section 11166. This subdivision shall only apply if:

(1) The limitation period specified in Section 800 or 801 has expired, and

(2) The defendant has committed at least one violation of Section 261, 286, 288, 288a, or 289, against the same victim within the limitation period specified for that crime in either Section 800 or 801.

SEC. 3. The amendments to Sections 801.5 and 803 of the Penal Code made by this act apply to violations of Section 1871.1 of the Insurance Code committed during, as well as after, 1990.

CHAPTER 588

An act to amend Section 655 of, and to add, repeal, and add Section 655.6 of, the Harbors and Navigation Code, relating to driving offenses.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 655 of the Harbors and Navigation Code is amended to read:

655. (a) No person shall use any vessel or manipulate water skis, an aquaplane, or a similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person. The department shall adopt regulations for the use of vessels, water skis, aquaplanes, or similar devices in a manner which will minimize the danger to life, limb, or property consistent with reasonable use of the equipment for the purpose for which it was designed.

(b) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of intoxicating liquor, any drug, or the combined influence of intoxicating liquor and any drug.

(c) No person shall operate any vessel or manipulate any water skis, aquaplane, or similar device who has 0.08 percent or more, by weight, of alcohol in his or her blood.

(d) No person shall operate any vessel, or manipulate water skis, an aquaplane, or a similar device who is addicted to the use of any drug. This subdivision does not apply to a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code.

(e) No person shall operate any vessel or manipulate water skis,

an aquaplane, or a similar device while under the influence of intoxicating liquor, any drug, or under the combined influence of intoxicating liquor and any drug, and while so operating, do any act forbidden by law, or neglect any duty imposed by law in the use of the vessel, water skis, aquaplane, or similar device, which act or neglect proximately causes bodily injury to any person other than himself or herself.

(f) For purposes of this section, percent, by weight, of alcohol shall be based upon grams of alcohol per 100 milliliters of blood.

In any prosecution under subdivision (c), it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of operation of a vessel if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(g) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person while operating a vessel or manipulating water skis, an aquaplane, or a similar device under the influence of an alcoholic beverage in violation of subdivision (b) or (e), the amount of alcohol in the person's blood at the time of the test, as shown by chemical analysis of that person's blood, breath, or urine, shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent, by weight, of alcohol in the person's blood, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(2) If there was at that time 0.05 percent or more, but less than 0.08 percent, by weight, of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but the fact may be considered with other competent evidence in determining whether the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(3) If there was at that time 0.08 percent or more, by weight, of alcohol in the person's blood, it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(h) This section does not limit the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

(i) This section applies to foreign vessels using waters subject to state jurisdiction.

(j) This section shall remain in effect only until January 1, 1992, and as of that date is repealed.

SEC. 2. Section 655 of the Harbors and Navigation Code is amended to read:

655. (a) No person shall use any vessel or manipulate water skis, an aquaplane, or a similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person. The department shall adopt regulations for the use of vessels, water skis, aquaplanes, or similar devices in a manner which will minimize the danger to life, limb, or property consistent with reasonable use of the equipment for the purpose for which it was designed.

(b) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or the combined influence of an alcoholic beverage and any drug.

(c) No person shall operate any recreational vessel or manipulate any water skis, aquaplane, or similar device if the person has an alcohol concentration of 0.08 percent or more in his or her blood.

(d) No person shall operate any vessel other than a recreational vessel if the person has an alcohol concentration of 0.04 percent or more in his or her blood.

(e) No person shall operate any vessel, or manipulate water skis, an aquaplane, or a similar device who is addicted to the use of any drug. This subdivision does not apply to a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code.

(f) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or under the combined influence of an alcoholic beverage and any drug, and while so operating, do any act forbidden by law, or neglect any duty imposed by law in the use of the vessel, water skis, aquaplane, or similar device, which act or neglect proximately causes bodily injury to any person other than himself or herself.

(g) In any prosecution under subdivision (c), it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of operation of a recreational vessel if the person had an alcohol concentration of 0.08 percent or more in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(h) In any prosecution under subdivision (d), it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of operation of a vessel other than a recreational vessel if the person had an alcohol concentration of 0.04 percent or more in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(i) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person who was operating a vessel or manipulating water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage in violation of

subdivision (b) or (f), the amount of alcohol in the person's blood at the time of the test, as shown by a chemical test of that person's blood, breath, or urine, shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent, by weight, of alcohol in the person's blood, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(2) If there was at that time 0.05 percent or more, but less than 0.08 percent, by weight, of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but the fact may be considered with other competent evidence in determining whether the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(3) If there was at that time 0.08 percent or more, by weight, of alcohol in the person's blood, it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(j) This section does not limit the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

(k) This section applies to foreign vessels using waters subject to state jurisdiction.

(*l*) This section shall become operative on January 1, 1992.

SEC. 3. Section 655.6 is added to the Harbors and Navigation Code, to read:

655.6. (a) It is an infraction for a person under the age of 18 years who has 0.05 percent or more, by weight, of alcohol in his or her blood to operate any motorboat.

(b) A person may be found to be in violation of subdivision (a) if the person was, at the time of operating any motorboat, under the age of 18 years and under the influence of, or affected by, an alcoholic beverage regardless of whether a chemical test was made to determine that person's blood-alcohol concentration and if the trier of fact finds that the person had consumed an alcoholic beverage and was operating any motorboat while having a concentration of 0.05 percent or more, by weight, of alcohol in his or her blood.

(c) Section 655.1 applies to violations of this section.

(d) A violation of this section is punishable by a fine not exceeding one hundred dollars ($100). A second violation occurring within one year of a prior violation which resulted in a conviction is punishable by a fine not exceeding two hundred dollars ($200). A third or any subsequent conviction within a period of one year of two or more prior infractions which resulted in convictions is punishable by a fine not exceeding two hundred fifty dollars ($250). A person found to have committed a violation of this section shall be required to participate in an alcohol education or community service program

as provided in Section 23141 of the Vehicle Code.

(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. Section 655.6 is added to the Harbors and Navigation Code, to read:

655.6. (a) It is an infraction for a person under the age of 18 years who has 0.05 percent or more, by weight, of alcohol in his or her blood to operate any motorized recreational vessel.

(b) A person may be found to be in violation of subdivision (a) if the person was, at the time of operating any motorized recreational vessel, under the age of 18 years and under the influence of, or affected by, an alcoholic beverage regardless of whether a chemical test was made to determine that person's blood-alcohol concentration and if the trier of fact finds that the person had consumed an alcoholic beverage and was operating any motorized recreational vessel while having a concentration of 0.05 percent or more, by weight, of alcohol in his or her blood.

(c) Section 655.1 applies to violations of this section.

(d) A violation of this section is punishable by a fine not exceeding one hundred dollars ($100). A second violation occurring within one year of a prior violation which resulted in a conviction is punishable by a fine not exceeding two hundred dollars ($200). A third or any subsequent conviction within a period of one year of two or more prior infractions which resulted in convictions is punishable by a fine not exceeding two hundred fifty dollars ($250). A person found to have committed a violation of this section shall be required to participate in an alcohol education or community service program as provided in Section 23141 of the Vehicle Code.

(e) This section shall become operative on January 1, 1992.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 589

An act to add Sections 12749.9, 12749.91, and 12749.92 to the Water Code, relating to flood protection.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 12749.9 is added to the Water Code, to read:

12749.9. The project for flood protection measures on Coyote/Berryessa Creeks in Santa Clara County is adopted and authorized substantially in accordance with the recommendations of the Chief of Engineers, in the report dated February 7, 1989, as transmitted to Congress on December 5, 1989, with recommendations of the Secretary of the Army, 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. Funds may be appropriated pursuant to this authorization only upon the act of Congress adopting and authorizing the project substantially in accordance with the Chief of Engineers report and recommendations of the Secretary of the Army. The department may pay 50 percent of the nonfederal capital costs of the recreation and fish and wildlife enhancement features of the project.

SEC. 2. Section 12749.91 is added to the Water Code, to read:

12749.91. The Santa Clara Valley Water District shall give assurances satisfactory to the Secretary of the Army that local cooperation required by the Water Resources Development Act of 1986 (P.L. 99-662) will be furnished by the district in connection with the project for flood control adopted and authorized in Section 12749.9.

SEC. 3. Section 12749.92 is added to the Water Code, to read:

12749.92. The Santa Clara Valley Water District in conjunction with the Department of the Army, shall execute the plans and project referred to in Section 12749.9 and make modifications and amendments to the plan as may be necessary to execute them for the purpose 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 590

An act to amend Sections 74905, 74907, 74909, and 74912 of the Government Code, relating to courts.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 74905 of the Government Code is amended to read:

74905. (a) There shall be one clerk of the Ventura County Municipal Court, who shall be known as the court executive officer and who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The court executive officer shall receive the monthly compensation of six thousand twenty dollars ($6,020) to eight thousand seventy-one dollars ($8,071).

(b) There shall be three deputy executive officers of the Ventura County Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The deputy executive officers shall receive the monthly compensation of three thousand five hundred seventy-five dollars ($3,575) to four thousand seven hundred ninety-three dollars ($4,793).

(c) The rate of monthly compensation to be paid to the court executive officer and the deputy executive officers within the compensation ranges set forth in subdivisions (a) and (b) shall be established by joint action and approval of the board of supervisors and a majority of the judges of the court at an amount equal to that paid county employees with comparable experience and responsibility.

SEC. 2. Section 74907 of the Government Code is amended to read:

74907. The court executive officer may appoint the following positions which shall receive biweekly compensation specified in Section 74909:

(a) Three manager court divisions.
(b) Nine supervising court clerks.
(c) Twenty-three deputy municipal court clerks III.
(d) Thirty-five deputy municipal court clerks II.
(e) Twenty deputy municipal court clerks I.
(f) Two court interpreters.
(g) One program administrator III.
(h) One administrative officer II.
(i) One administrative assistant I.
(j) Two administrative aides.
(k) One accountant III.
(*l*) One supervising accountant.
(m) One accounting technician.

(n) Two senior account clerks.
(o) Five account clerks II.
(p) One supervising collections officer.
(q) Three collections officers.
(r) Two collections investigators.
(s) One executive secretary-confidential.
(t) Three municipal court secretaries.
(u) One microfilm technician II.
(v) One mail messenger.
(w) Three clerks.
(x) One senior secretary.

SEC. 3. Section 74909 of the Government Code is amended to read:

74909. (a) The following biweekly salary schedule, which is consistent with the Salary Ordinance of the County of Ventura shall apply to the personnel of the Ventura County Municipal Court:

Municipal Court Classification	Biweekly Rate
Manager Court Divisions	$1,197.00–1,604.00
Supervising Court Clerk	937.44–1,140.08
Deputy Municipal Court Clerk III	773.08– 939.01
Deputy Municipal Court Clerk II	670.17– 811.36
Deputy Municipal Court Clerk I	558.44– 703.66
Court Interpreter	670.17– 811.36
Program Administrator III	1,354.00–1,815.00
Administrative Officer II	1,494.00–2,004.00
Administrative Assistant I	946.42–1,148.86
Administrative Aide	755.12– 918.16
Accountant III	1,121.53–1,364.23
Supervising Accountant	1,532.00–2,054.00
Accounting Technician	858.43–1,041.92
Senior Account Clerk	650.22– 793.83
Account Clerk II	603.93– 735.57
Supervising Collections Officer	869.65–1,055.77
Collections Officer	755.51– 915.08
Collections Investigator	701.28– 851.25
Executive Secretary-Confidential	868.00–1,164.00
Municipal Court Secretary	739.56– 898.32
Microfilm Technician II	627.86– 764.30
Mail Messenger	562.46– 670.17
Clerk	454.76– 571.21
Senior Secretary	725.21– 878.37

Merit increases within the salary range shall be in accordance with the salary merit increment plan.

(b) In the event that the above biweekly salary schedule is not applicable, then Section 74912 shall apply.

SEC. 4. Section 74912 of the Government Code is amended to

read:

74912. Certain classifications in the Ventura County Municipal Court are deemed to be equivalent in position responsibility and salary level to certain classifications in the service of Ventura County and whenever the salary of an equivalent classification in the Ventura County service is adjusted by the board of supervisors, the salary of the equivalent classification in the Ventura County Municipal Court and the salary of the personnel in such classifications, shall be adjusted an equivalent amount. Such adjustment 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 Ventura County service. Any salary increases granted or reclassifications made pursuant to this article shall be effective only until the effective date of general legislation enacted by the Legislature at its next regular session following the date such salary increases are granted or reclassifications made. Classifications deemed to be equivalent are as follows:

Municipal Court Classification	County Classification
Supervising Court Clerk	Supervising Court Clerk
Deputy Municipal Court Clerk III	Superior Court Clerk III
Deputy Municipal Court Clerk II	Superior Court Clerk II
Deputy Municipal Court Clerk I	Superior Court Clerk I
Data Entry Operator II	Data Entry Operator II
Data Entry Operator I	Data Entry Operator I
Municipal Court Secretary	Superior Court Secretary
Administrative Assistant II	Administrative Assistant II
Accounting Technician	Accounting Technician
Mail Messenger	Mail Messenger
Account Clerk II	Account Clerk II
Clerk	Clerk
Manager Court Divisions	Manager Court Divisions
Court Interpreters	Court Interpreters
Program Administrator III	Program Administrator III
Administrative Assistant I	Administrative Assistant I
Administrative Aide	Administrative Aide
Accountant III	Accountant III
Supervising Accountant	Supervising Accountant
Senior Account Clerk	Senior Account Clerk
Supervising Collections Officer	Supervising Collections Officer
Collections Officer	Collections Officer

Collections Investigator	Collections Investigator
Executive Secretary-Confidential	Executive Secretary-Confidential
Microfilm Technician II	Microfilm Technician II

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 591

An act to amend Section 20231.5 of, and to add Section 20916.3 to, the Public Contract Code, and to amend Sections 120224.4 and 130228 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 20231.5 of the Public Contract Code is amended to read:

20231.5. (a) The Legislature finds and declares that the award of purchase contracts by the Southern California Rapid Transit District under competitive bid procedures may not be feasible for products and materials which are undergoing rapid technological changes or for the introduction of new technologies into district operations, and that in these circumstances it is in the public interest to consider the broadest possible range of competing products and materials available, fitness of purpose, manufacturer's warranty, and other similar factors in addition to price in the award of these contracts.

(b) This section applies only to the purchase by the district of computers, telecommunications equipment, fare collection equipment, microwave equipment, and other related electronic equipment and apparatus, and of rail cars. This section does not apply to contracts for construction or for the procurement of any product available in substantial quantities to the general public.

(c) The board may, after a finding by a two-thirds vote that a particular procurement qualifies under subdivision (b), direct that the procurement be conducted through competitive negotiation under this section. For purposes of this section, competitive negotiation includes, but is not limited to, all of the following requirements:

(1) The request for proposals shall be prepared and submitted to an adequate number of qualified sources, as determined by the board, to permit reasonable competition consistent with the nature and requirements of the procurement. In addition, notice of the request for proposals shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals. The board shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the request for proposals is received.

(2) The request for proposals shall identify all significant evaluation factors, including price, and their relative importance.

(3) The board shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for contract award.

(4) Award shall be made to the qualified proposer whose proposal will be most advantageous to the district, with price and all other factors considered. If award is not made to the bidder whose proposal contains the lowest price, the board shall make a finding setting forth the basis for the award.

(d) The board may reject any and all proposals and request new proposals, at its discretion.

(e) Upon making an award to a qualified proposer, the board, upon request, shall make available to all other proposers and to the public, an analysis of the award which provides the basis for the selection of that particular qualified proposal.

(f) A person who submits, or who plans to submit, a proposal may protest any acquisition conducted in accordance with this section as follows:

(1) Protests based on the content of the request for proposals shall be filed with the district within 10 calendar days after the request for proposals is first advertised in accordance with subdivision (c). The district shall issue a written decision on the protest prior to the opening of proposals. A protest may be renewed by refiling the protest with the district within 15 calendar days after the mailing of the notice of the recommended award.

(2) Any bidder may protest the recommended award on any ground not based upon the content of the request for proposals by filing a protest with the district within 15 calendar days after the mailing of the notice of the recommended award.

(3) Any protest shall contain a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. Protestors shall have an opportunity to appear and be heard before the board prior to the opening of proposals in the case of protests based on the content of the request for proposals, or prior to final award in the case of protests based on other grounds or the renewal of protests based on the content of the request for proposals.

(g) Provisions in any contract concerning women and minority

business enterprises, which provisions are in accordance with the request for proposals, shall not be subject to negotiation with the successful bidder.

SEC. 2. Section 20916.3 is added to the Public Contract Code, to read:

20916.3. (a) The Legislature finds and declares that the award of purchase contracts by the Golden Gate Bridge, Highway and Transportation District under competitive bid procedures may not be feasible for products and materials which are undergoing rapid technological changes or for the introduction of new technologies into district operations. Under these circumstances, it is in the public interest to consider the broadest possible range of competing products and materials available, fitness of purpose, manufacturer's warranty, performance reliability, delivery timetables, vendor financing, support logistics, and other similar factors in addition to price in the award of these contracts.

(b) Notwithstanding any other provision of law, the board may direct the purchase of the specialized equipment specified in subdivision (g) by competitive negotiation upon a finding, by a two-thirds vote of the membership of the board, that the purchase of that equipment pursuant to laws otherwise applicable to the purchase is not feasible or in the public interest.

(c) Competitive negotiation, for the purposes of this section, includes, but is not limited to, all of the following requirements:

(1) A request for proposals shall be prepared and submitted to an adequate number of qualified sources, as determined by the board, to permit reasonable competition consistent with the nature and requirements of the procurement. In addition, notice of the request for proposals shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals. The board shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the request for proposals is received.

(2) A request for proposals shall identify all significant evaluation factors, including price, and their relative importance.

(3) The board shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for contract award.

(4) Award shall be made to the qualified proposer whose proposal will be most advantageous to the district, with price and all other factors considered. If award is not made to the bidder whose proposal contains the lowest price, the board shall make a finding setting forth the basis for the award.

(d) The board may reject any and all proposals and request new proposals, at its discretion.

(e) Upon making an award to a qualified proposer, the board, upon request, shall make available to all other proposers and to the public, an analysis of the award which provides the basis for the

selection of that particular qualified proposal.

(f) A person who submits, or who plans to submit, a proposal may protest any acquisition conducted in accordance with this section as follows:

(1) Protests based on the content of the request for proposals shall be filed with the board within 10 calendar days after the request for proposals is first advertised in accordance with subdivision (b). The board shall issue a written decision on the protest prior to the opening of proposals. A protest may be renewed by refiling the protest with the board within 15 calendar days after the mailing of the notice of the recommended award.

(2) Any bidder may protest the recommended award on any ground not based upon the content of the request for proposals by filing a protest with the board within 15 calendar days after the mailing of the notice of the recommended award.

(3) Any protest shall contain a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. Protestors shall have an opportunity to appear and be heard before the board prior to the opening of proposals in the case of protests based on the content of the request for proposals, or prior to final award in the case of protests based on other grounds or the renewal of protests based on the content of the request for proposals.

(g) This section applies only to the purchase by the district of computers, telecommunications equipment, automated toll and fare collection equipment, microwave equipment, and other related electronic equipment and apparatus. This section does not apply to contracts for construction or for the procurement of any product available in substantial quantities to the general public.

(h) Provisions in any contract concerning women and minority business enterprises, which provisions are in accordance with the request for proposals, shall not be subject to negotiation with the successful bidder.

SEC. 3. Section 120224.4 of the Public Utilities Code is amended to read:

120224.4. (a) The Legislature finds and declares that the award of purchase contracts by the board under competitive bid procedures may not be feasible for products and materials which are undergoing rapid technological changes or for the introduction of new technologies into board operations, and that in these circumstances it is in the public interest to consider the broadest possible range of competing products and materials available, fitness of purpose, manufacturer's warranty, and other similar factors in addition to price in the award of these contracts.

(b) Notwithstanding Section 120222 the board may, after a finding by a two-thirds vote that a particular procurement qualifies under subdivision (g), direct that the procurement be conducted through competitive negotiation under this section. For purposes of this section, competitive negotiation includes, but is not limited to, all of

the following requirements:

(1) The request for proposals shall be prepared and submitted to an adequate number of qualified sources, as determined by the board, to permit reasonable competition consistent with the nature and requirements of the procurement. In addition, notice of the request for proposals shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals. The board shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the request for proposals is received.

(2) The request for proposals shall identify all significant evaluation factors, including price, and their relative importance.

(3) The board shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for contract award.

(4) Contract awards shall be made to the qualified proposer whose proposal will be most advantageous to the board, with price and all other factors considered. If award is not made to the bidder whose proposal contains the lowest price, the board shall make a finding setting forth the basis for the award.

(c) The board may reject any and all proposals and request new proposals, at its discretion.

(d) Prior to making an award, the board shall prepare a price analysis and shall find that the final negotiated price is fair and reasonable based upon comparable procurements in the marketplace.

(e) Upon making an award to a qualified proposer, the board, upon request, shall make available to all other proposers and to the public, an analysis of the award which provides the basis for the selection of that particular qualified proposal.

(f) A person who submits, or who plans to submit, a proposal may protest any acquisition conducted in accordance with this section as follows:

(1) Protests based on the content of the request for proposals shall be filed with the board within 10 calendar days after the request for proposals is first advertised in accordance with subdivision (c). The board shall issue a written decision on the protest prior to opening of proposals. A protest may be renewed by refiling the protest with the board within 15 calendar days after the mailing of the notice of the recommended award.

(2) Any bidder may protest the recommended award on any ground not based upon the content of the request for proposals by filing a protest with the board within 15 calendar days after the mailing of the notice of the recommended award.

(3) Any protest shall contain a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. Protestors shall have an opportunity to appear and be heard before the board prior to the opening of

proposals in the case of protests based on the content of the request for proposals, or prior to final award in the case of protests based on other grounds or the renewal of protests based on the content of the request for proposals.

(g) This section applies only to the purchase by the board of specialized rail transit equipment, computers, telecommunications equipment, fare collection equipment, microwave equipment, and other related electronic equipment and apparatus, and of rail cars. This section does not apply to contracts for construction or for the procurement of any product available in substantial quantities to the general public.

(h) Provisions in any contract concerning women and minority business enterprises, which provisions are in accordance with the request for proposals, shall not be subject to negotiation with the successful bidder.

(i) 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 130238 of the Public Utilities Code is amended to read:

130238. (a) The Legislature finds and declares that (1) because of the highly specialized and unique nature of all rail transit equipment, (2) because of products and materials which are undergoing rapid technological changes, and (3) for the introduction of new technological changes into the operations of the commission, it may be in the public interest to consider, in addition to price, factors such as vendor financing, performance reliability, standardization, life-cycle costs, delivery timetables, support logistics, and the broadest possible range of competing products and materials available, fitness of purchase, manufacturer's warranty, and similar factors in the award of contracts for these vehicles and equipment.

(b) This section applies only to the purchase by the commission of (1) specialized rail transit equipment, including rail cars, and (2) computers, telecommunications equipment, fare collections equipment, microwave equipment, and other related electronic equipment and apparatus. This section does not apply to contracts for construction or for the procurement of any product available in substantial quantities to the general public.

(c) The commission may, after finding by a two-thirds vote of all of its members that a particular procurement qualifies under subdivision (b), direct that the procurement be conducted through competitive negotiation under this section. For purposes of this section, competitive negotiation includes, but is not limited to, all of the following requirements:

(1) The request for proposals shall be prepared and submitted to an adequate number of qualified sources, as determined by the commission, to permit reasonable competition consistent with the nature and requirement of the procurement.

(2) Notice of the request for proposals shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.

(3) The commission shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the request for proposals is received.

(4) The request for proposals shall identify all significant evaluation factors, including price, and their relative importance.

(5) The commission shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for contract award.

(6) Award shall be made to the qualified proposer whose proposal will be most advantageous to the commission with price and all other factors considered.

(7) If award is not made to the bidder whose proposal contains the lowest price, the commission shall make a finding setting forth the basis for the award.

(d) The commission, at its discretion, may reject any and all proposals and request new proposals.

(e) A person who submits, or who plans to submit, a proposal may protest any acquisition conducted in accordance with this section as follows:

(1) Protests based on the content of the request for proposals shall be filed with the commission within 10 calendar days after the request for proposals is first advertised in accordance with subdivision (c). The commission shall issue a written decision on the protest prior to opening of proposals. A protest may be renewed by refiling the protest with the commission within 15 calendar days after the mailing of the notice of the recommended award.

(2) Any bidder may protest the recommended award on any ground not based upon the content of the request for proposals by filing a protest with the commission within 15 calendar days after the mailing of the notice of the recommended award.

(3) Any protest shall contain a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. Protestors shall have an opportunity to appear and be heard before the commission prior to the opening of proposals in the case of protests based on the content of the request for proposals, or prior to final award in the case of protests based on other grounds or the renewal of protests based on the content of the request for proposals.

(f) Provisions in any contract concerning women and minority business enterprises, which provisions are in accordance with the request for proposals, shall not be subject to negotiation with the successful bidder.

CHAPTER 592

An act to add repeal Section 20134.5 of the Public Contract Code, relating to court facilities.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 20134.5 is added to the Public Contract Code, to read:

20134.5. (a) In the Counties of Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, and Santa Clara, in which the board of supervisors certifies by a two-thirds vote that there is a significant need to expeditiously construct or expand court and court support facilities, the board of supervisors may contract for the construction, alteration, or expansion of court and court support facilities without the formality of obtaining bids, adopting plans and specifications, or complying with other requirements of this article. The person to whom the contract is awarded shall execute a bond for faithful performance in accordance with Section 20129 and a bond for the payment of claims for labor and materials. A contract awarded pursuant to this section shall be considered a public works project subject to the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code. 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 section 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. The competitive process shall include specific criteria. The competitive evaluation of contractors shall include, but need not be limited to, (1) demonstrated experience in the successful completion of projects of similar type and size, (2) the degree to which size of the firm and financial resources of the firm are adequate to ensure successful project completion, and (3) overall prior experience in successfully completing projects within schedule and budget. The board shall select the lowest bidder.

(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.

CHAPTER 593

An act to add Section 25401.2 to the Public Resources Code, relating to energy resources conservation, and making an appropriation therefor.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 25401.2 is added to the Public Resources Code, to read:

25401.2. (a) As part of the biennial energy conservation report required by Section 25401.1, the commission shall develop and update an inventory of current and potential cost-effective opportunities in each utility's service territory, to improve efficiencies and to help utilities manage loads in all sectors of natural gas and electricity use. The report shall include estimates of the overall magnitude of these resources, load shapes, and the projected costs associated with delivering the various types of energy savings that are identified in the inventory. The report shall also estimate the amount and incremental cost per unit of potential energy efficiency and load management activities. Where applicable, the inventory shall include data on variations in savings and costs associated with particular measures. The report shall take into consideration environmental benefits as developed in related commission and public utilities commission proceedings.

(b) The commission shall develop and maintain the inventory in consultation with electric and gas utilities, the Public Utilities Commission, academic institutions, and other interested parties.

(c) The commission shall convene a technical advisory group to develop an analytic framework for the inventory, to discuss the level of detail at which the inventory would operate, and to ensure that the inventory is consistent with other demand-side data bases. Privately owned electric and gas utilities shall provide financial support, gather data, and provide analysis for activities that the technical advisory group recommends. The technical advisory group shall terminate on January 1, 1993.

SEC. 2. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the Energy Resources Programs Account in the General Fund to the State Energy Resources Conservation and Development Commission for the addition of one personnel and the issuance of contracts to implement the inventory of cost-effective

energy efficiency opportunities required by Section 25401.2 of the Public Resources Code. None of these funds may be expended by the commission to support the technical advisory group established pursuant to subdivision (c) of Section 25401.2 of the Public Resources Code.

CHAPTER 594

An act to amend Section 15907 of the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 15907 of the Fish and Game Code is amended to read:

15907. This chapter 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.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 595

An act to add Section 31840.7 to the Government Code, relating to county employee retirement.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 31840.7 is added to the Government Code, to read:

31840.7. Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within a specified period after

termination of employment covered by a system under this chapter or another retirement system, the period shall be one year in the case of any member who was reemployed on or after January 1, 1989, and whose termination of employment was due to layoff because of, a lack of work, a lack of funds, or a reduction in workforce.

This section shall not be operative in any county until the time that the board of supervisors, by resolution adopted by a majority vote, makes the provision applicable in that county.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 596

An act to amend Sections 44009, 44836, and 45123 of the Education Code, relating to education.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 44009 of the Education Code is amended to read:

44009. (a) A plea or verdict of guilty or finding of guilt by a court in a trial without a jury is deemed to be a conviction within the meaning of Sections 44425 and 44436, irrespective of a subsequent order for probation suspending the imposition of a sentence or an order under Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information. The record of a narcotics offense, as defined in Section 44011, shall be sufficient proof of conviction of a crime involving moral turpitude for the purposes of Sections 44892, 44907, and 44923, and Sections 44932 to 44947, inclusive, relating to the dismissal of permanent employees.

(b) A plea or verdict of guilty, or finding of guilt by a court in a trial without a jury, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of

Section 44836 and 45123, irrespective of a subsequent order for probation suspending the imposition of a sentence or an order under Section 12033.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information. The record of conviction shall be sufficient proof of conviction of a crime involving moral turpitude for the purposes of Sections 44892, 44907, and Sections 44932 to 44947, inclusive, relating to the dismissal of permanent employees.

SEC. 2. Section 44836 of the Education Code is amended to read:

44836. Governing boards of school districts shall not employ or retain in employment persons in public school service who have been convicted, or who have been convicted following a plea of nolo contendere to charges, of any sex offense as defined in Section 44010. Governing boards of school districts also shall not employ or retain in employment persons in public school service who have been convicted of any controlled substance offense as defined in Section 44011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

However, a governing board may employ a person convicted of a controlled substance offense in a position requiring certification qualifications if that person holds an appropriate credential issued by the Commission for Teacher Preparation and Licensing.

SEC. 3. Section 45123 of the Education Code is amended to read:

45123. (a) No person shall be employed or retained in employment by a school district who has been convicted of any sex offense as defined in Section 44010. A plea or verdict of guilty, a finding of guilt by a court in a trial without jury, or a conviction following a plea of nolo contendere shall be deemed to be a conviction within the meaning of this subdivision.

(b) No person shall be employed or retained in employment by a school district, who has been convicted of a controlled substance offense as defined in Section 44011.

(c) If, however, a conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him or her are dismissed, this section does not prohibit his or her employment thereafter.

(d) The governing board of a school district may employ a person convicted of a controlled substance offense if the governing board of the school district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

CHAPTER 597

An act to amend Section 15402 of the Government Code, relating to the State Public Defender.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 15402 of the Government Code is amended to read:

15402. The State Public Defender may employ deputies and other employees, and establish and operate offices, as he or she may need for the proper performance of his or her duties. The State Public Defender may contract with county public defenders, private attorneys, and nonprofit corporations organized to furnish legal services to persons who are not financially able to employ counsel and pay a reasonable sum for those services pursuant to the contracts. He or she may provide for participation by those attorneys and organizations in his or her representation of eligible persons. The attorneys and organizations shall serve under the supervision and control of the State Public Defender and shall be compensated for their services either under those contracts or in the manner provided in Section 1241 of the Penal Code.

The State Public Defender may also enter into reciprocal or mutual assistance agreements with the board of supervisors of one or more counties to provide for exchange of personnel for the purposes set forth in Section 27707.1.

CHAPTER 598

An act to amend Sections 69894.1 and 69894.6 of the Government Code, relating to courts.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 69894.1 of the Government Code is amended to read:

69894.1. In the County of Los Angeles, a majority of the judges of the superior court may appoint the following officers and employees whose salaries shall be:

Number	Title	Schedule
3	Accountant	61C
12	Accounting Technician	51B
3	Administrative Assistant II	64H
4	Administrative Assistant III	68D
18	Administrative Judicial Secretary	67F
5	Administrative Secretary	64J
1	Arbitration Administrator	73D
1	Assistant Criminal Courts Coordinator	72C
1	Assistant Director, Civil Court Services	R10
1	Assistant Director, Criminal Court Services	R10
1	Assistant Director, Juvenile Court Services	R10
1	Assistant Director, Juvenile Traffic	R10
1	Assistant Director, Mental Health Services	R11
1	Assistant Director, Pre-Trial Services	R10
16	Assistant District Chief	72D N.W.
19	Assistant Head, Court Services	72D
1	Assistant Head, Office Services	61F
2	Assistant Juvenile Courts Coordinator	72C
1	Assistant Supervising Probate Attorney	97B N.X.
2	Assistant to the Executive Officer	R10
1	Associate Personnel Administrator	R10
1	Bindery Worker I	42A
2	Chief Clerk	64C
1	Chief Deputy County Clerk/Executive Officer	R15
12	Child Custody Evaluator	78C
1	Civil Courts Coordinator	R10
1	County Clerk/Executive Officer/Jury Commissioner	R17
63	Court Attendant	54D
55	Court Commissioner	F $6,682.67
22	Court Exhibits Custodian	55C
3	Court Facilities and Property Services Coordinator	69G

365	Court Reporter	78G N.Z.
1	Court Statistician	61D
1	Criminal Courts Coordinator	R10
2	Data Conversion Equipment Operator	50F
1	Delinquency Court Coordinator	R10
1	Dependency Court Coordinator	R10
1	Director, Capital Projects	R10
1	Director, Civil Court Operations	R13
1	Director, Criminal Court/Pre-Trial Services	R13
2	Director, District Operations	R12
1	Director, Facilities Services	R10
1	Director, Family Court Services	R12
1	Director, Financial Management	R11
1	Director, Human Resources Administration	R11
1	Director, Interpreter/Translating Services	R10
1	Director, Juror Management	R12
1	Director, Juvenile Mental Health Court Operations	R13
1	Director, Management Systems	R12
1	Director, Reporter Services	R10
9	District Chief	R9
12	District Jury Coordinator	52L
1	Division Chief, Budget and Support Services	R9
6	Division Chief, Civil Court Services	R8
2	Division Chief, Criminal Court Services	R8
5	Division Chief, Family Court Services	R9
1	Division Chief, Mental Health Services	R9
3	EDP Programmer Analyst	68H
5	Electronic Recording Monitor	54D
2	Executive Assistant	76G
1	Finance Officer	77D
1	Graphic Arts Aide	52A
1	Head, Court Attendant Services	69C
1	Head, Court Finance	R9
1	Head, Management Audits	82B
1	Head, Office Services	70E
1	Head, Staffing Services	76H
4	Interpreter	53C
2	Interpreter/Court Reporter Assignment Clerk	65K

58	Investigator	68B
69	Investigator Aide	57F
303	Judicial Assistant	65F N.W.
30	Judicial Assistant Trainee	F $2,356.09
14	Judicial Secretary	60F
2	Jury Program Coordinator	68F
35	Law Clerk	70C
1	Law Librarian, Superior Court	72H
4	Legal Research Assistant	54B
7	Light Vehicle Driver	43A
14	Mental Health Hearing Referee	78C
448	Office Assistant I	44L
141	Office Assistant II	48L
138	Office Assistant III	50L
24	Office Assistant IV	52L
1	Office Assistant Trainee	40L
7	Offset Duplicator Operator	46A
1	Payroll Records Supervisor	59E
4	Personnel Assistant	52C
6	Personnel Technician	68H
1	Photocopy Machine Operator I	38H
1	Photocopy Machine Operator II	42J
1	Principal Counselor	76B
4	Principal Program Analyst	78H
1	Printer I	51H
1	Printer II	56F
1	Printing Production Supervisor II	60K
12	Probate Attorney	92L N.W.
1	Probate Commissioner	A3
11	Probate Decree Clerk	51F
2	Procurement Assistant I	52L
1	Procurement Assistant II	58K
4	Program Analyst	68H
8	Program Specialist	62J
1	Project Manager	75G
4	Property Custodian-Auditor	51K
1	Psychiatric Physician	FD $270.66
3	Records Assistant	51C
11	Referee	FD $307.25
18	Referee, Juvenile Traffic	79D
1	Research Attorney	86L N.W.
1	Research Records Technician	58H
11	Secretary I	54F
4	Secretary II	62F
1	Secretary to the Assistant County Clerk	70F

1	Secretary to the Assistant Executive Officer	70F
1	Secretary to the County Clerk/ Executive Officer	76F
1	Secretary to Grand Jury	70E
1	Secretary to Presiding Judge	78F
12	Senior Counselor	74A
3	Senior Court Attendant	61C
2	Senior Departmental Personnel Technician	72H
1	Senior Director, Administrative Services	R14
1	Senior Director, Calendar Management	R14
1	Senior Director, Special Operations	R14
7	Senior EDP Programmer Analyst	72B
30	Senior Family Mediator	78C
9	Senior Investigator Aide	59F
7	Senior Investigator, Own Recognizance	74F
40	Senior Judicial Secretary	63F
19	Senior Office Assistant I	54L
6	Senior Office Assistant II	58H
1	Senior Offset Duplicator Operator	50A
2	Senior Personnel Assistant	61K
1	Senior Probate Attorney	94L N.X.
1	Senior Probate Decree Clerk	57E
2	Senior Program Analyst	72H
1	Senior Property Custodian-Auditor	57J
1	Senior Word Processor	53F
1	Special Assistant	R8
1	Special Assistant-Appellate Department	70D
1	Special Assistant to the Presiding Judge	84G
1	Staff Assistant I	55K
16	Staff Assistant II	62K
3	Staff Consultant	R10
220	Student Worker	FH $7.24
3	Supervising Court Exhibits Custodian I	58B
1	Supervising Court Exhibits Custodian II	65C
9	Supervising District Office Clerk..	62K
2	Supervising EDP Programmer Analyst	77L

4	Supervising Law Clerk	72C
1	Supervising Probate Decree Clerk	69A
1	Supervisor, Budget, Procurement, and Supply Services	76G
1	Training Officer	76H
2	Warehouse Worker I	50L
1	Warehouse Worker II	54L
10	Family Counselor Intern, W/O Compensation	
15250	Deputy County Clerk, W/O Compensation	
250	Volunteer, W/O Compensation	

Whenever a reference to numbered salary schedules and notes is made in this section, those found in the Los Angeles County Code, Title 6, shall apply. Whenever the compensation of superior court judges is adjusted, the flat-rate salaries for court commissioners, senior referees, and referees shall be adjusted to maintain the salary relationship of 85 percent of the annual compensation of superior court judges.

Reduction of the schedule applicable to a class by reason of the adoption of this salary plan or subsequent reclassification of position for organizational purposes shall not result in a lower salary rate to incumbents of such positions. The court is authorized to regulate by rule the status of employees so affected.

As defined in the Los Angeles County Code, Section 6.28.030, the following prefixes are used instead of schedule numbers:

F—Flat rate per month

FD—Flat rate per day

FH—Flat rate per hour

N.W.—Pursuant to the Los Angeles County Code, Title 6, employees employed in this position shall be compensated on a six-step salary range, the sixth step being the fifth step of the salary schedule which is two standard salary schedules above the indicated schedule number. The rate or rates established by this provision constitute a base rate.

N.X.—As defined in the Los Angeles County Code Section 6.28.050.

N.Z.—Pursuant to the Los Angeles County Code, Title 6, employees employed in this position shall be compensated on a seven-step salary range, the sixth step being the fifth step of the salary schedule which is one standard salary schedule above the indicated schedule number, and the seventh step being the fifth step of the salary schedule which is two standard salary schedules above the indicated schedule number. Advancement to the sixth step shall be granted upon completion of 18 months of continuous service at the fifth step and advancement to the seventh step shall be granted upon completion of 18 months of continuous service at the sixth step. The rate or rates established by this provision constitute a base rate.

"R" or "A" indicates a position's inclusion in the County's

Performance Based Pay Plan. The grade number following the "R" or "A" designation indicates the salary range. Compensation of such positions is in accordance with Sections 6.08.305 to 6.08.360, inclusive, of the County Code.

All personnel appointed pursuant to this article, except the county clerk/executive officer/jury commissioner, shall serve at the pleasure of the court and may at any time be removed by the court in its discretion. The county clerk/executive officer/jury commissioner shall serve at the pleasure of the court and the board of supervisors.

SEC. 2. Section 69894.6 of the Government Code is amended to read:

69894.6. Notwithstanding Section 69894.1, in the County of Los Angeles, a majority of the judges of the superior court may appoint 365 court reporters, each of whom shall receive a salary equivalent to the schedule designation 78G N3 N.Z. in the Los Angeles County Code. Court reporters shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

Reduction of the schedule applicable to court reporters by reason of the adoption of this salary plan or subsequent reclassification of positions for organizational purposes shall not result in a lower salary rate to incumbent court reporters. The court may regulate by rule the status of employees so affected.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 599

An act to amend Section 1719 of the Civil Code, relating to civil procedure.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 1719 of the Civil Code is amended to read:

1719. (a) Notwithstanding any penal sanctions which may apply, any person who makes, utters, draws, or delivers any check, or draft, or order upon any bank or depository, or person, or firm, or corporation, for the payment of money, which refuses to honor the same for lack of funds or credit to pay, or because the maker has no

account with the drawee, or because the maker instructed the drawee to stop payment, and who fails to pay the same amount in cash to the payee within 30 days following a written demand therefor informing the maker of the provisions of this section, mailed to the maker by certified mail, shall be liable to the payee, in addition to the amount owing upon that check or draft or order, for damages of treble the amount so owing, but in no case less than one hundred dollars ($100), and in no case more than five hundred dollars ($500), plus the costs of mailing the written demand for payment. However, there shall be no cause of action under this section if a maker stops payment in order to resolve a good faith dispute with the payee. The payee is entitled to the damages only upon proving by clear and convincing evidence that there was no good faith dispute, as defined in subdivision (b).

(b) For purposes of this section, in the case of a stop payment the existence of a "good faith dispute" shall be determined by the trier of fact. A "good faith dispute" is one in which the court finds that the maker had a reasonable belief of his or her legal entitlement to withhold payment. Grounds to such entitlement include, but are not limited to, the following: services were not rendered, goods were not delivered, goods or services purchased are faulty, not as promised, or otherwise unsatisfactory, or there was an overcharge.

(c) In the case of a stop payment, the notice to the maker required by this section shall be in substantially the following form:

NOTICE

To: _____
(name of maker)

_____ is the payee of a check you wrote
(name of payee)

for $ _____ . The check was not paid because
(amount)

you stopped payment, and the payee demands payment. You may have a good faith dispute as to whether you owe the full amount. If you do not have a good faith dispute with the payee and fail to pay the payee the full amount of the check in cash within 30 days after this notice was mailed, you could be sued and held responsible to pay at least all of the following:

(1) The amount of the check.

(2) Damages of at least $100 or, if higher, three times the amount of the check up to $500.

(3) The cost of mailing this notice.

If the court determines that you do have a good faith dispute with the payee, you will not have to pay the damages and mailing cost mentioned above. If you stopped payment because you have a good faith dispute with the payee, you should try to work out your dispute with the payee. You can contact the payee at:

_____
(name of payee)

(street address)

(telephone number)

You may wish to contact a lawyer to discuss your legal rights and responsibilities.

(name of sender of notice)

(d) In the case of a stop payment, a court may not award damages or costs under this section unless the court receives into evidence a copy of the written demand which, in that case, shall have been sent to the maker and a signed certified mail receipt showing delivery, or attempted delivery if refused, of the written demand to the maker's address.

(e) A cause of action under this section may be brought in small claims court, if it does not exceed the jurisdiction of that court, or in any other appropriate court. The payee shall, in order to recover damages because the maker instructed the drawee to stop payment, show to the satisfaction of the trier of fact that there was a reasonable effort on the part of the payee to reconcile and resolve the dispute prior to pursuing the dispute through the courts.

(f) A cause of action under this section may be brought in municipal or justice court by an assignee of the payee. However, if the assignee is acting on behalf of the payee, for a flat fee or a percentage fee, the assignee may not charge the payee a greater flat fee or percentage fee for that portion of the amount collected that represents treble damages than is charged the payee for collecting the face amount of the check, draft, or order. This subdivision shall not apply to an action brought in small claims court.

CHAPTER 600

An act to amend Sections 69900, 74502, 74503, and 74504 of the Government Code, relating to courts.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 69900 of the Government Code is amended to read:

69900. In the City and County of San Francisco, a majority of the judges of the superior court may appoint the following employees, whose annual salaries shall be as set forth hereafter. The class numbers set forth refer to the superior court position classifications

contained in the salary ordinance of the City and County of San Francisco.

	Title	Class Number
1	Executive Officer	0555
1	Assistant Executive Officer	0584
1	Administrative Assistant	0585
2	Civil Jury Coordinators	0586
1	Criminal Jury Coordinator	0587
4	Civil Courts Coordinators	0588
5	Court Assistants	0589
7	Court Assistants, Senior	0590
1	Administrative Services Assistant	0591
1	Payroll/Personnel Director	0592
10	Court Commissioners	0620
1	Deputy Jury Commissioner	0622
1	Juvenile Calendar Coordinator	0634
1	Civil Calendar Coordinator	0636
1	Criminal Court Administrator	0638
1	Director - Family Court Services	0640
1	Assistant Director - Family Court Services	0641
1	Assistant Director - Probate	0646
1	Director, Probate	0647
4	Court Investigators	0648
3	Probate Examiners	0649
5	Counselors - Family Court Services	0655
1	Mental Health Coordinator	0657
10	Legal Research Assistants	0676
1	Judicial Secretary Coordinator	0677
1	Secretary to the Presiding Judge	0678
1	Secretary to the Executive Officer	0679
6	Judicial Secretaries	0680
8	Judicial Clerks, Senior	0681
6	Judicial Clerks	0697
1	Information Clerk	0705
29	Court Reporters	0710
1	Legal Research Assistant - Presiding Judge	0735
1	Superior Court Computer Coordinator	0821
4	Attorneys, Civil and Criminal	0174
1	Juvenile Justice Director	0637

Those positions shall be paid biweekly the equivalent amount as specified in the salary ordinance. All salaries for original appointments shall be at step 1, provided that on the first anniversary of appointment the employee shall advance to the second step, and thereafter on the second anniversary of appointment the employee shall advance to step 3, and thereafter on the third anniversary of appointment the employee shall advance to step 4 and thereafter shall be paid at the rate established by step 4.

Service in any position enumerated herein prior to the effective date of the amendments to this section enacted at the 1989–90 Regular Session of the Legislature shall constitute service for the purpose of determining the step at which the attaché is paid. Service in any position wherein substantially the same duties have been performed shall also be deemed service for the purpose of determining at which step the attaché is to be paid.

Employment by the court shall be deemed to be employment by the city and county, if approved by resolution of the court, for purposes of determining court employees' rights to sick leave, vacation, and holiday pay and accumulation thereof, as provided either by charter or ordinances of the city and county for miscellaneous employees.

With the approval of the board of supervisors, the court may establish such additional titles and pay rates as are required and, with the approval of the board of supervisors, may appoint and employ such additional commissioners, officers, and assistants and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members.

Rates of compensation of all officers and assistants and other employees may be altered by joint action and approval of the board of supervisors and a majority of the judges of the court. The salaries of the employees of the superior court shall be paid by the city and county.

SEC. 2. Section 74502 of the Government Code is amended to read:

74502. (a) Notwithstanding any other provision of this code, the municipal court positions specified in this section shall be paid at a minimum the monthly equivalent amount specified.

Notwithstanding any other provision of this code, whenever any vacancy occurs in a position specified in this section, the judges, or a majority of the judges of the court, shall appoint a person to the vacancy, who shall hold office at their pleasure, and who shall receive the salary specified in this section. The appointing authority, in its discretion, may appoint two part-time appointees to a class number, who shall each receive a salary equal to the pro rata share of the salary specified in this section.

The salary at initial appointment to a class number shall be at step one during the first year of service in that class number, except the appointing authority, in its discretion and excluding positions specified in subdivision (c), when the appointee is qualified may start an appointee at a step level other than step one. After the first year of permanent certification and commencing on the first day of the month following the next anniversary of the appointment, the appointee shall advance to the next step of the class number until the top step in the class is reached.

(b) There shall be one clerk-administrator who shall serve as clerk of the court and secretary to the judges, perform duties specified in the law and those assigned by the judges, and who shall be paid a

salary, as clerk class number 0210, of six thousand fifty-five dollars ($6,055) for step one, of six thousand three hundred eighty-eight dollars ($6,388) for step two, and of six thousand six hundred sixty-three dollars ($6,663) for step three.

(c) Notwithstanding the provisions of Section 72400, there shall be three traffic referees who shall have the powers and duties specified in Sections 72401, 72402, and 72403, who shall perform such duties as assigned by the presiding judge and who shall be paid a salary, as class number 0250, equal to 50 percent of the salary of a judge of the municipal court during the first year of service; subject to approval of the judges, or a majority of them, a salary equal to 65 percent of the salary of a judge of the municipal court after the first year of permanent certification, commencing on the first day of the month following the first anniversary of appointment; and subject to the approval of the judges, or a majority of them, a maximum salary equal to 80 percent of the salary of a judge of the municipal court after the second year of permanent certification, commencing on the first day of the month following the second anniversary of appointment.

(d) There shall be two chief deputies, one with overall responsibility for the civil small claims and administrative divisions, and one with overall responsibility for the criminal and traffic divisions, each of whom shall also serve as jury commissioner and who shall exercise insofar as applicable to the municipal court, the powers of a jury commissioner of a superior court and who shall be paid a salary, as deputy clerk class number 0220, of five thousand one hundred eighty-two dollars ($5,182) for step one, of five thousand four hundred sixty-seven dollars ($5,467) for step two, and of five thousand seven hundred sixty-eight dollars ($5,768) for step three.

(e) There shall be one executive assistant to the presiding judge who shall be paid a salary, as deputy clerk class number 0221, of four thousand nine hundred twelve dollars ($4,912) for step one, of five thousand one hundred eighty-two dollars ($5,182) for step two, and of five thousand four hundred sixty-seven dollars ($5,467) for step three, and who shall perform such duties as assigned by the presiding judge, or as assigned by the clerk-administrator after the approval of the presiding judge. When the executive assistant to the presiding judge is a member of the State Bar, the executive assistant may perform duties for the court in the field of law at the direction of the presiding judge with the concurrence of the administrative committee and be paid in addition to the salary provided by this article, the additional sum of four hundred dollars ($400) monthly.

(f) There shall be one executive secretary to the presiding judge who shall serve as confidential executive secretary to the presiding judge and executive assistant, who shall perform such duties as are assigned by the presiding judge, the executive assistant, or the clerk-administrator after the approval of the presiding judge, and who shall be paid the salary, as deputy class number 0285, of three thousand two hundred sixty-four dollars ($3,264) for step one, of

three thousand four hundred fifty-eight dollars ($3,458) for step two, and of three thousand six hundred sixty-seven dollars ($3,667) for step three.

(g) There shall be one small claims legal advisor who shall be paid a salary, as deputy clerk class number 0260, of three thousand nine hundred thirty-five dollars ($3,935) for step one, of four thousand eighty-eight dollars ($4,088) for step two, of four thousand three hundred thirty dollars ($4,330) for step three, of four thousand five hundred forty dollars ($4,540) for step four, and of four thousand seven hundred sixty dollars ($4,760) for step five, and who shall perform such duties pursuant to Section 117.18 of the Code of Civil Procedure.

(h) There shall be one deputy clerk who shall be appointed criminal courts calendar coordinator who shall be paid a salary, as deputy clerk class number 0225, of four thousand four hundred thirty-four dollars ($4,434) for step one, of four thousand six hundred seventy-seven dollars ($4,677) for step two, and of four thousand nine hundred thirty-five dollars ($4,935) for step three, and perform such duties as are assigned by the judges of the court.

SEC. 3. Section 74503 of the Government Code is amended to read:

74503. (a) Notwithstanding any other provision of this code, the municipal court positions specified in this section shall be paid at a minimum the monthly equivalent amount specified.

Whenever any vacancy occurs in a position specified in this section, the clerk-administrator shall appoint, upon consent of a majority of the judges, or a majority of the judges of the court may appoint a person to the vacancy who shall hold office at the pleasure of the appointing authority, and who shall receive the salary specified in this section. The appointing authority, in its discretion, may appoint two part-time appointees to a class number, who shall each receive a salary equal to the pro rata share of the salary specified in this section.

The salary at initial appointment to a class number shall be at step one during the first year of service in that class number, except the appointing authority, in its discretion and when the appointee is so qualified may start an appointee at a step level other than step one. After the first year of permanent certification and commencing on the first day of the month following the next anniversary of the appointment, the appointee shall advance to the next step of the class number until the top step in the class is reached.

(b) There shall be one court training coordinator who shall be paid a salary, as deputy clerk class number 0222, of four thousand four hundred thirty-four dollars ($4,434) for step one, of four thousand six hundred seventy-seven dollars ($4,677) for step two, and of four thousand nine hundred thirty-five dollars ($4,935) for step three, and who shall perform such duties as are assigned by the clerk-administrator.

(c) There shall be one deputy clerk who shall be appointed court

systems coordinator, who shall be paid a salary, as deputy clerk class number 0222, of four thousand four hundred thirty-four dollars ($4,434) for step one, of four thousand six hundred seventy-seven dollars ($4,677) for step two, and of four thousand nine hundred thirty-five dollars ($4,935) for step three, and who shall perform such duties as are assigned by the clerk-administrator.

(d) There shall be one deputy clerk who shall be appointed assistant court systems coordinator who shall be paid a salary, as deputy clerk class number 0273, of three thousand seven hundred ninety-three dollars ($3,793) for step one, of four thousand three dollars ($4,003) for step two, and of four thousand two hundred twenty-three dollars ($4,223) for step three, and who shall perform such duties as are assigned by the clerk-administrator.

(e) There shall be one court fiscal officer who shall be paid a salary, as deputy clerk class number 0223, of five thousand one hundred eighty-two dollars ($5,182) for step one, of five thousand four hundred sixty-seven dollars ($5,467) for step two, and of five thousand seven hundred sixty-eight dollars ($5,768) for step three, and who shall perform such duties as are assigned by the clerk-administrator.

(f) There shall be one court computer system director who shall be paid a salary, as deputy clerk class number 0242, of six thousand three hundred twenty-two dollars ($6,322) for step one, of six thousand six hundred thirty-eight dollars ($6,638) for step two, of six thousand nine hundred seventy dollars ($6,970) for step three, of seven thousand three hundred fourteen dollars ($7,314) for step four, and of seven thousand six hundred eighty-five dollars ($7,685) for step five, and who shall perform such duties as are assigned by the clerk-administrator.

(g) There shall be one court traffic system programmer who shall be paid a salary, as deputy clerk class number 0243, of five thousand two hundred one dollars ($5,201) for step one, of five thousand four hundred sixty-three dollars ($5,463) for step two, of five thousand seven hundred thirty-five dollars ($5,735) for step three, of six thousand twenty-one dollars ($6,021) for step four, and of six thousand three hundred twenty-two dollars ($6,322) for step five, and who shall perform such duties as are assigned by the clerk-administrator.

(h) There shall be one court traffic senior application programmer who shall be paid a salary as deputy clerk class number 0244, of five thousand two hundred one dollars ($5,201) for step one, of five thousand four hundred sixty-three dollars ($5,463) for step two, of five thousand seven hundred thirty-five dollars ($5,735) for step three, of six thousand twenty-one dollars ($6,021) for step four, and of six thousand three hundred twenty-two dollars ($6,322) for step five, and who shall perform such duties as are assigned by the clerk-administrator.

(i) There shall be one court application programmer who shall be paid a salary as deputy clerk class number 0246, of four thousand five

hundred dollars ($4,500) for step one, of four thousand seven hundred twenty-four dollars ($4,724) for step two, of four thousand nine hundred fifty-three dollars ($4,953) for step three, of five thousand two hundred one dollars ($5,201) for step four, and of five thousand four hundred sixty-three dollars ($5,463) for step five, and who shall perform such duties as are assigned by the clerk-administrator.

(j) There shall be one court technical writer who shall be paid a salary as deputy clerk class number 0248, of three thousand one hundred ninety-seven dollars ($3,197) for step one, of three thousand three hundred fifty-seven dollars ($3,357) for step two, of three thousand five hundred twenty-three dollars ($3,523) for step three, of three thousand seven hundred dollars ($3,700) for step four, and of three thousand eight hundred eighty-five dollars ($3,885) for step five, and who shall perform such duties as are assigned by the clerk-administrator.

(k) There shall be one court program analyst manager who shall be paid a salary, as deputy clerk class number 0240, of four thousand fifty-three dollars ($4,053) for step one, of four thousand two hundred sixty-three dollars ($4,263) for step two, of four thousand four hundred eighty dollars ($4,480) for step three, of four thousand seven hundred two dollars ($4,702) for step four, and of four thousand nine hundred thirty-seven dollars ($4,937) for step five, and who shall perform such duties as are assigned by the clerk-administrator.

(*l*) There shall be one assistant court program analyst manager who shall be paid a salary, as deputy clerk class number 0278, of three thousand ninety-two dollars ($3,092) for step one, of three thousand four hundred fourteen dollars ($3,414) for step two, of three thousand five hundred eighty-two dollars ($3,582) for step three, of three thousand seven hundred sixty-two dollars ($3,762) for step four, and of three thousand nine hundred fifty-three dollars ($3,953) for step five, and who shall perform such duties as are assigned by the clerk-administrator.

(m) There shall be one confidential administrative legal stenographer who shall be paid a salary, as deputy clerk class number 0287, of three thousand one hundred twenty-four dollars ($3,124) for step one, of three thousand three hundred twelve dollars ($3,312) for step two, and of three thousand five hundred eleven dollars ($3,511) for step three, and who shall perform such duties as are assigned by the clerk-administrator.

(n) There shall be one personnel-payroll clerk who shall be paid a salary, as deputy clerk class number 0289, of three thousand one hundred twenty-four dollars ($3,124) for step one, of three thousand three hundred twelve dollars ($3,312) for step two, and of three thousand five hundred eleven dollars ($3,511) for step three, and who shall perform such duties as are assigned by the clerk-administrator.

(o) There shall be five information clerks who shall be paid a

salary, as deputy clerk class number 0340, of two thousand sixty-six dollars ($2,066) for step one, of two thousand three hundred forty-eight dollars ($2,348) for step two, of two thousand six hundred thirty-eighty dollars ($2,638) for step three, and of two thousand seven hundred twenty-six dollars ($2,726) for step four, and who shall perform such duties as are assigned by the clerk-administrator.

(p) There shall be three legal research attorneys who shall be paid a salary, as deputy clerk class number 0360, of three thousand one hundred twenty-five dollars ($3,125) for step one, of three thousand three hundred twelve dollars ($3,312) for step two, and of three thousand five hundred eleven dollars ($3,511) for step three, and who shall perform such duties as are assigned by the clerk-administrator.

(q) There shall be one assistant training coordinator, who shall be paid a salary, as deputy clerk class number 0297, of two thousand six hundred twenty-four dollars ($2,624) for step one, of two thousand seven hundred eighty-one dollars ($2,781) for step two, and of two thousand nine hundred forty-seven dollars ($2,947) for step three, and who shall perform such duties as are assigned by the clerk-administrator.

SEC. 4. Section 74504 of the Government Code is amended to read:

74504. Notwithstanding any other provision of this code, the municipal court positions specified in this section shall be paid at a minimum the monthly equivalent amount specified.

The salary at initial appointment to a class number shall be at step one during the first year of service in that class number, except when the appointee is qualified by current civil service classification for other than step one. After the first year of permanent certification and commencing on the first day of the month following the next anniversary of the appointment, the appointee shall advance to the next step of the class number until the top step in the class is reached. The appointing authority, in its discretion, may appoint two part-time appointees to a class number, who shall each receive a salary equal to the pro rata share of the salary specified in this section.

The clerk-administrator shall appoint and assign the duties and responsibilities for the following:

(a) Three deputy clerks who shall be the division chiefs in the civil, criminal and traffic divisions of the court who shall be paid a salary, as deputy clerk class number 0230, of four thousand four hundred thirty-four dollars ($4,434) for step one, of four thousand six hundred seventy-seven dollars ($4,677) for step two, and of four thousand nine hundred thirty-five dollars ($4,935) for step three.

(b) Seven deputy clerks who shall be assistant division chiefs and who shall be paid a salary, as deputy clerk class number 0270, of three thousand seven hundred ninety-three dollars ($3,793) for step one, of four thousand three dollars ($4,003) for step two, and of four thousand two hundred twenty-three dollars ($4,223) for step three.

(c) Thirty-four deputy clerks who shall be paid a salary, as deputy

clerk class number 0280, of three thousand one hundred twenty-four dollars ($3,124) for step one, of three thousand three hundred twelve dollars ($3,312) for step two, and of three thousand five hundred eleven dollars ($3,511) for step three.

(d) Twenty-five deputy clerks who shall be paid a salary, as deputy clerk class number 0290, of two thousand six hundred twenty-four dollars ($2,624) for step one, of two thousand seven hundred eighty-one dollars ($2,781) for step two, and of two thousand nine hundred forty-seven dollars ($2,947) for step three.

(e) Thirty-eight deputy clerks who shall be paid a salary, as deputy clerk class number 0320, of two thousand two hundred two dollars ($2,202) for step one, of two thousand three hundred thirty-four dollars ($2,334) for step two, and of two thousand four hundred seventy-five dollars ($2,475) for step three.

(f) Eighty deputy clerks who shall be paid a salary, as deputy clerk class number 0330, of one thousand eight hundred fifty dollars ($1,850) for step one, of one thousand nine hundred sixty dollars ($1,960) for step two, and of two thousand seventy-seven dollars ($2,077) for step three.

(g) Eight half-time deputy clerks who shall be paid a salary, as deputy clerk class number 0330, of nine hundred twenty-five dollars ($925) for step one, of nine hundred eighty dollars ($980) one for step two, and of one thousand thirty-nine dollars ($1,039) for step three.

(h) One principal accountant who shall be paid a salary, as civil service class number 1654, of three thousand ninety-six dollars ($3,096) for step one, of three thousand two hundred forty-eight dollars ($3,248) for step two, of three thousand four hundred eight dollars ($3,408) for step three, of three thousand five hundred seventy-five dollars ($3,575) for step four, and of three thousand seven hundred fifty-one dollars ($3,751) for step five.

(i) Two accountants who shall be paid a salary, as civil service class number 1650, of two thousand one hundred thirteen dollars ($2,113) for step one, of two thousand two hundred fourteen dollars ($2,214) for step two, of two thousand three hundred twenty-five dollars ($2,325) for step three, of two thousand four hundred thirty-eight dollars ($2,438) for step four, and of two thousand five hundred fifty-seven dollars ($2,557) for step five.

(j) One senior account clerk who shall be paid a salary, as civil service class number 1632, of two thousand thirteen dollars ($2,013) for step one, of two thousand one hundred thirteen dollars ($2,113) for step two, of two thousand two hundred fourteen dollars ($2,214) for step three, of two thousand three hundred twenty-five dollars ($2,325) for step four, and of two thousand four hundred thirty-eight dollars ($2,438) for step five.

(k) Two account clerks who shall be paid a salary, as civil service class number 1630, of one thousand seven hundred fifty-five dollars ($1,755) for step one, of one thousand eight hundred forty-two dollars ($1,842) for step two, of one thousand nine hundred

thirty-one dollars ($1,931) for step three, of two thousand twenty-four dollars ($2,024) for step four, and of two thousand one hundred twenty-one dollars ($2,121) for step five.

(*l*) Eleven data entry operators who shall be paid a salary, as civil service class number 1720, of one thousand five hundred eighty-four dollars ($1,584) for step one, of one thousand six hundred sixty dollars ($1,660) for step two, of one thousand seven hundred forty dollars ($1,740) for step three, of one thousand eight hundred twenty-four dollars ($1,824) for step four, and of one thousand nine hundred eleven dollars ($1,911) for step five.

(m) One deputy clerk, and while assigned by the clerk-administrator as assistant personnel-payroll deputy, shall be paid, in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(n) One deputy clerk, and while assigned by the clerk-administrator as budget-purchasing deputy to the court fiscal officer, shall be paid, in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(o) Two deputy clerks who shall serve as master calendar clerk, civil, and master calendar clerk, criminal, and while assigned to such position by the clerk-administrator, shall be paid, in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(p) Six deputy clerks and while assigned by the clerk-administrator and where specific duties merit may be paid at the discretion of the appointing authority, in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(q) Two deputy clerks who shall serve as master jury calendar clerk, civil, and master jury calendar clerk, criminal, and while assigned to such position by the clerk-administrator shall be paid, in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(r) One deputy clerk, while assigned by the clerk-administrator as principal courtroom clerk serving in the criminal law and motion court, shall be paid, in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(s) Deputy clerks who are required and authorized to work more than 40 hours in a week shall be entitled to overtime pay for that period in excess of the 40 hours at a rate equal to one and one-half times the amount to which they are otherwise entitled.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 601

An act to amend Section 25111 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 25111 of the Revenue and Taxation Code is amended to read:

25111. (a) A water's-edge election shall be made by contract with the Franchise Tax Board in the original return for a year and shall be effective only if every taxpayer which is a member of the water's-edge group and which is subject to tax under this part makes the election. A single taxpayer which is engaged in more than one business activity subject to allocation and apportionment as provided in Article 2 (commencing with Section 25120) of Chapter 17 may make a separate election for each business. The form and manner of making the water's-edge election shall be prescribed by the Franchise Tax Board. Each contract making a water's-edge election shall be for an initial term of five years, except as provided in subdivisions (b) and (c). Each contract shall provide that on the anniversary date of the contract or any other annual date specified by the contract a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in subdivision (f). Each contract shall be conditioned by an agreement to pay the amount specified in Section 25115. Except as provided in subdivisions (b) and (c), the Franchise Tax Board shall enter into a contract as provided by this section with any qualified taxpayer which wishes to make a water's-edge election. An affiliated bank or corporation which is a member of the water's-edge group and subsequently becomes subject to tax under this part or is a nonelecting taxpayer which is subsequently proved to be a member of the water's-edge group pursuant to Franchise Tax Board audit determination, as evidenced by a notice of deficiency proposed to be assessed or a notice of tax change, shall be deemed to have elected.

No water's-edge election shall be made for an income year beginning prior to January 1, 1988.

(b) A water's-edge election may be terminated by a taxpayer prior to the end of the five-year period if any of the following occurs:

(1) The taxpayer is acquired directly or indirectly by a nonelecting entity which alone or together with those affiliates included in its combined report is larger than the taxpayer as measured by equity capital.

(2) The taxpayer ceases to be affiliated with any bank or corporation whose income and apportionment factors the taxpayer would be required to take into account in determining its income

under Section 25101 but for the election and the taxpayer is not itself a bank or corporation doing business within and without the United States.

(3) With the permission of the Franchise Tax Board.

(4) Pursuant to a Franchise Tax Board audit determination, as evidenced by a notice of the deficiency proposed to be assessed or a notice of tax change, a substantial modification is made to the composition of the water's-edge group as filed, in which case the election may be terminated only with respect to income years beginning on or after January 1 of the year in which the audit determination is made.

No refund of any amounts paid pursuant to Section 25115 shall be made for those years during which the election was in effect.

(c) A water's-edge election may be disregarded by the Franchise Tax Board, only if any of the following occurs:

(1) A bank or corporation willfully fails to comply substantially with Section 25401d or any federal law requiring the filing of domestic spreadsheets.

(2) After a reasonable adjustment of transfer prices, royalty rates, the allocation of common expenses, and similar adjustments, the return filed pursuant to this section fails to prevent the willful evasion of taxes.

(3) An otherwise qualified taxpayer willfully fails to do any of the following:

(A) Retain and make available upon request the documents and information, including any questionnaires completed and submitted to the Internal Revenue Service or qualified states, which are necessary to audit issues involving attribution of income to the United States or foreign jurisdictions under Sections 482, 861, 863, 902, and 904, and Subpart F of Part III of Subchapter N, or similar sections of the Internal Revenue Code.

(B) Identify, upon request, principal officers or employees who have substantial knowledge of, and access to, documents and records which discuss pricing policies, profit centers, cost centers, and the methods of allocating income and expense among these centers. The information shall include the employees' titles and addresses.

(C) Retain and make available upon request all documents and correspondence ordinarily available to a bank or corporation included in the water's-edge election which are submitted to or obtained from the Internal Revenue Service, foreign countries or their territories or possessions, and competent authority pertaining to ruling requests, rulings, settlement resolutions, and competing claims involving jurisdictional assignment and sourcing of income that affect the assignment of income to the United States. The documents shall include all ruling requests and rulings on reorganizations involving foreign incorporation of branches, all ruling requests and rulings on changing a bank or corporation's jurisdictional incorporation, and all documents which are ordinarily available to a bank or corporation included in the water's-edge

election which pertain to the determination of foreign tax liability, including examination reports issued by foreign taxing administrations. If the documents have been translated, the translations shall be furnished.

(D) Upon request, prepare and make available for each bank or corporation included in the disclosure spreadsheet referred to in Section 25401d in which the taxpayer is included, a list of each state of the United States, including the District of Columbia, territories or possessions, and each foreign country in which it has payroll, property, or sales. The sales shall be determined by destination whether or not the taxpayer is taxable in the destination jurisdiction.

(E) Retain and make available, upon request, forms filed with the Internal Revenue Service to comply with Sections 6038, 6038A, and 6041 of the Internal Revenue Code.

(F) Upon request, prepare and make available for each bank or corporation organized or created under the laws of the United States or a political subdivision thereof, of which 50 percent or more of its voting stock is directly or indirectly owned or controlled, the information which would be included in the forms described in subparagraph (E) if those forms were required for United States corporations.

(G) Retain and make available, upon request, all state tax returns filed by each bank or corporation included under subdivision (a) in each state, including the District of Columbia.

(H) Comply with reasonable requests for information necessary to determine or verify its net income, apportionment factors, or the geographic source of that income pursuant to the Internal Revenue Code.

(I) For purposes of this subdivision, information for any year shall be retained for that period of time in which the taxpayer's income or franchise tax liability to this state may be subject to adjustment, including all periods in which additional income or franchise taxes may be assessed or during which an appeal is pending before the State Board of Equalization or a lawsuit is pending in the courts of this state or the United States with respect to California franchise or income tax.

(d) The taxpayer shall be provided 90 days' prior written notice that the Franchise Tax Board intends to disregard a water's-edge election under subdivision (c). The taxpayer shall have the right to seek review in the superior court of the Franchise Tax Board's intended decision to disregard the election.

(e) In disregarding an election or in granting a change of election, the Franchise Tax Board shall impose any conditions which are necessary to prevent the avoidance of tax or clearly reflect income for the period the election was, or was purported to be, in effect. These conditions may include a requirement that income, including dividends paid from income earned while a water's-edge election was in effect, which would have been included in determining the income of the taxpayer from sources within and without this state

pursuant to Section 25101 but for the water's-edge election shall be included in income in the year in which the election is changed or disregarded.

(f) If the taxpayer desires in any year not to renew the contract, the taxpayer shall serve written notice of nonrenewal of the contract upon the board in advance of the annual renewal date of the contract. Unless that written notice is served by the taxpayer at least 90 days prior to the renewal date, the contract shall be considered renewed as provided in subdivision (a).

(g) If the taxpayer serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

SEC. 2. Subject to the provisions of Section 25111 of the Revenue and Taxation Code and Chapter 22 (commencing with Section 26071) of Part 11 of Division 2 of the Revenue and Taxation Code, in the event of a final appellate level determination by a California or federal court that the application of the worldwide combined report method or the requirement that amounts be paid pursuant to Section 25115 of the Revenue and Taxation Code is unconstitutional, amounts paid pursuant to Section 25115 of the Revenue and Taxation Code for income years beginning on or after January 1, 1988, shall, to the extent ordered by the court or as otherwise provided in Article 1.5 (commencing with Section 25110) of Chapter 17 of Part 11 of Division 2 of the Revenue and Taxation Code and regulations thereunder as of the effective date of this act, be refunded, with interest as provided in Section 26080 of the Revenue and Taxation Code, from funds in the California Unitary Fund, which is hereby appropriated to the Franchise Tax Board for that purpose.

In the event that there are insufficient funds in the California Unitary Fund for those refunds, refunds of amounts paid pursuant to Section 25115 of the Revenue and Taxation Code shall be paid from the General Fund. There is hereby appropriated from the General Fund to the Franchise Tax Board an amount necessary to pay the balance of those refunds.

SEC. 3. The amendments to Section 25111 of the Revenue and Taxation Code made by Section 1 of this act shall apply to, and be operative for, audits of income years beginning on or after January 1, 1988.

CHAPTER 602

An act to add Section 16050.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 16050.5 is added to the Vehicle Code, to read:

16050.5. The owner of a vehicle, who has a liability insurance policy with respect to the vehicle, shall, upon request, furnish insurance information to a person who, while operating the vehicle with the owner's permission, is involved in a reportable accident with the insured vehicle, or to the department whenever the department is required to establish whether the permissive driver meets the financial responsibility requirements of Section 16020.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 603

An act relating to education.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990.]

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

SECTION 1. The Superintendent of Public Instruction shall conduct a compliance review of at least six school districts in Los Angeles County in regard to the requirements of paragraph (3) of subdivision (a) of Section 35160.5. The six school districts shall include at least two elementary school districts, two high school districts, and two unified school districts. The review shall be completed by January 31, 1991.

The superintendent shall report the findings of the compliance review to the education policy committees of the Senate and of the

Assembly. The report shall include any specific instances of noncompliance, the facts surrounding the noncompliance, and the individual or entity within the district responsible for the noncompliance. The report shall include recommendations for alleviating all aspects of noncompliance and shall recommend any legislation that may be needed to ensure that noncompliance will be eliminated or that individuals or school entities may be held responsible for compliance.

If the superintendent finds that a school district is in noncompliance with the requirements of paragraph (3) of subdivision (a) of Section 35160.5, and the school district has experienced a material decrease in its average daily attendance that is related to the noncompliance, the superintendent shall not use his or her administrative authority under Section 46392 to credit to the school district the average daily attendance that would have been credited to the school district if the school district had not experienced the material decrease in average daily attendance.

SEC. 2. Due to the unique circumstances concerning the school districts in Los Angeles County, it is necessary that special action be taken in that county, and 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 604

An act to amend Sections 4051 and 4155 of, and to add Sections 4362 and 4363 to, the Food and Agricultural Code, relating to fairs, and making an appropriation therefor.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 4051 of the Food and Agricultural Code is amended to read:

4051. An association, with the approval of both the Department of Food and Agriculture and the Department of General Services, may do any of the following:

(a) Contract.

(b) Purchase, acquire, hold, sell, exchange, or convey any interest in real or personal property and beautify or improve that property. Any acquisition of land or other real property shall be subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

(c) Lease, let, or grant licenses for the use of its real estate or personal property, or any portion of that property, to any person or public body for whatever purpose may be approved by the board.

(d) Use or manage its real estate or personal property, or any portion of that property, for any or all of the purposes of this section jointly with any lessee, sublessee, or licensee, or otherwise use or manage the property in connection with the lease, sublease, or license which is made or granted.

(e) Lease or let its real property for public park, recreational, or playground purposes.

(f) Rent or permit the use of its premises for any purpose which is beneficial to the agricultural industry, including, but not limited to, the holding of sales or auctions of cattle or other livestock.

(g) Contract with any county or county fair association for holding a fair jointly with the county or county fair association. The joint fair is a district fair of the association.

(h) Make permanent improvements upon publicly owned real property adjacent to real property of the district when the improvements materially benefit the property of the district.

(i) Pledge any and all revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind, pursuant to such terms and conditions as are approved by the board. The revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind pledged by the association or its assignees constitute a lien and security interest which immediately attaches to the property so pledged and is effective, binding, and enforceable against the association, its successors, purchasers of the property so pledged, creditors, and all others asserting rights therein, to the extent set forth, and in accordance with, the terms and conditions of the pledge, irrespective of whether those persons have notice of the pledge and without the need for any physical delivery, recordation, filing, or further act.

SEC. 2. Section 4155 of the Food and Agricultural Code is amended to read:

4155. The 22nd District Agricultural Association may expend up to five hundred thousand dollars ($500,000) annually for the operation of a fair pursuant to Section 4001 for the purposes enumerated therein from the money received by the district from a lease of district property for horseracing purposes. Any such money received by the district over five hundred thousand dollars ($500,000) may be expended in furtherance of the master plan developed pursuant to Section 4156. Any of this money that is not expended in this manner, or accumulated to be expended in furtherance of the master plan, including the amortization of revenue bonds, shall be transferred by the district to the General Fund upon executive order of the Director of Food and Agriculture.

SEC. 3. Section 4362 is added to the Food and Agricultural Code, to read:

4362. The commission may enter into a joint powers agreement with the 22nd District Agricultural Association pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the

Government Code. For the purposes of Section 6502 of the Government Code, the common powers to be exercised by the entity created pursuant to the joint powers agreement shall be the powers of a district agricultural association. The commission may contract with the joint exercise of powers entity pursuant to law and may pledge any and all revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind, pursuant to the terms and conditions approved by the commission. The revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind pledged by the commission or its assignees constitute a lien and security interest which immediately attaches to the property so pledged and is effective, binding, and enforceable against the commission, its successors, purchasers of the property so pledged, creditors, and all others asserting rights therein, to the extent set forth, and in accordance with, the terms and conditions of the pledge, irrespective of whether those persons have notice of the pledge and without the need for any physical delivery, recordation, filing, or further act.

SEC. 4. Section 4363 is added to the Food and Agricultural Code, to read:

4363. The State of California pledges to, and agrees with, the holders of any bonds, other indebtedness, or obligations for the financing of the improvements described in the master plan pursuant to Section 4156, and which are issued or executed and delivered by the commission, the 22nd District Agricultural Association, or a joint exercise of powers entity created by them, that the state will not alter or change the structure of funding of, and deposits to, the commission or the 22nd District Agricultural Association set forth in Article 9.2 (commencing with Section 19605) of Chapter 4 of Division 8 of the Business and Professions Code, or the pledge of funds for debt service, security, including any coverage factors, and expenses entered into pursuant to this Part 3 until the bonds, other indebtedness, or obligations are fully paid or discharged or have been fully provided for in accordance with their terms. However, nothing precludes any alteration or change if and when adequate provision has been made by law for the protection from impairment of the contract represented by the bonds, other indebtedness, or obligations, and the right to alter or change is hereby reserved. The commission, the 22nd District Agricultural Association, and a joint exercise of powers entity created by them, are each authorized to include this pledge and undertaking of the state in their bonds, agreements evidencing other indebtedness, and other indebtedness or obligations for the financing of the improvements described in the master plan pursuant to Section 4156.

CHAPTER 605

An act to amend Section 1014 of the Evidence Code, relating to privilege.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990.]

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

SECTION 1. Section 1014 of the Evidence Code is amended to read:

1014. Subject to Section 912 and except as otherwise provided in this article, the patient, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between patient and psychotherapist if the privilege is claimed by:

(a) The holder of the privilege.

(b) A person who is authorized to claim the privilege by the holder of the privilege.

(c) The person who was the psychotherapist at the time of the confidential communication, but such person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure.

The relationship of a psychotherapist and patient shall exist between a psychological corporation as defined in Article 9 (commencing with Section 2995) of Chapter 6.6 of Division 2 of the Business and Professions Code, a marriage, family, and child counseling corporation as defined in Article 6 (commencing with Section 4987.5) of Chapter 13 of Division 2 of the Business and Professions Code, or a licensed clinical social workers corporation as defined in Article 5 (commencing with Section 4998) of Chapter 14 of Division 2 of the Business and Professions Code, and the patient to whom it renders professional services, as well as between those patients and psychotherapists employed by those corporations to render services to those patients. The word "persons" as used in this subdivision includes partnerships, corporations, associations and other groups and entities.

CHAPTER 606

An act to add Section 322.8 to the Health and Safety Code, relating to child health.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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 Full Immunization Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) Immunizations protect children against dangerous preventable diseases, such as polio, measles, pertussis, tetanus, and mumps. Some of these diseases are so serious they can be fatal.

(b) Immunization levels among California infants and preschool-age children are unacceptably low. For example, in 1989 California experienced the largest outbreak of measles in over 10 years. The 3,000 cases reported resulted in at least 17 deaths and over 700 hospitalizations. What was unusual about this outbreak was the number of preschool children who contracted the disease because they were not immunized. There have already been 16 measles-related deaths in California within the first two and one-half months of this year.

(c) Low levels of immunization among California infants and preschool-age children are indicative, in part, of the general lack of access to primary health care for many of the state's low-income and uninsured children. One-third of the state's children rely on public health care facilities for their health care, and the vast majority of these children do not have access to a regular doctor.

(d) While California has a legal requirement that children be immunized before entering school and licensed preschool and day care programs, nearly 60 percent of California two-year olds are inadequately immunized at the present time.

(e) It is recommended that children begin receiving polio, DTP (diphtheria, tetanus, pertussis), and MMR (measles, mumps, rubella) immunizations between 2 and 15 months of age, and have the Hib (haemophilis influenzae type b) immunization and all but the last DTP and polio immunizations by 18 months of age. However, many children do not receive immunizations until just before entering kindergarten.

(f) The American Academy of Pediatrics and the United States Public Health Service now recommend a second MMR immunization.

(g) Existing California law requires that any child entering school for the first time have four DTP shots, one MMR shot, and three polio shots in order to enroll in school. However, one additional DTP shot and one additional polio shot are required if the child receives the

other shots before the age of two. Up-to-date immunizations are also required in order for a child to enroll in licensed preschool and day care programs.

(h) The cost of providing immunizations has risen significantly over the past few years, due mainly to the increased cost of vaccines.

(i) Although California has received increased federal funding for immunizations in proportion to rising costs, unlike several states that have increased immunization funding to levels close to their federal share, California's contribution has remained relatively stable.

Over the past few years, California's overall investment in immunization has been inadequate to meet the needs of this vital component of its public health system. As a result, the immunization program is left vulnerable to cuts in federal funding, state budgetary shortfalls, and added costs of unforeseen epidemics.

For example, in the 1990–91 fiscal year, a combination of federal immunization cuts and state budgetary shortfalls almost caused a deficit of almost four million dollars ($4,000,000) for the purchase and administration of needed immunizations. This occurred during the time of a major measles epidemic and a significant increase in reported cases of whooping cough.

(j) California has avoided running out of vaccines through a combination of mid-crisis appropriations and funding redirections. While it is fortunate that the state has been able to respond to the measles epidemic, the problem still remains that young children in California are inadequately immunized.

(k) The measles epidemic in California has revealed the need for significant improvements in the way that California immunizes its children. What is needed is a strong state policy which provides for the funding and services necessary to fully immunize California's children. All of the following are necessary to develop that policy:

(1) The state should devise a plan for adequately funding the anticipated immunization needs of California, as well as its unforeseen emergency needs.

(2) The state should make every effort to increase its share of funding relative to the federal share for immunization efforts.

(3) California should work toward increasing the effectiveness of the Child Health and Disability Prevention Program as a mechanism for assuring that all California children are immunized at an early age and in a comprehensive manner.

(4) The state should pay particular attention to the need for expanded immunization efforts among currently underserved minority children, young children in family day care and other child care settings, and children with no health insurance coverage.

(5) California should make a commitment to ongoing methods of health outreach and community education among hard to reach target populations.

SEC. 3. The purposes of this act are to do all of the following:

(a) Encourage the state to establish and maintain a policy which would allow for the full and ongoing immunization of all California

children.

(b) Encourage the state to better utilize the Child Health and Disability Prevention Program so that California children may be immunized in a way that assures, to the extent possible, their entry into the Child Health and Disability Prevention Program system of continuing primary and preventive health care.

(c) Encourage improvements in the immunization status of currently underserved minority children, young children in family day care and other child care settings, and children with no health insurance coverage.

(d) Encourage improvements in ongoing methods of immunization outreach and education directed toward hard-to-reach target populations.

SEC. 4. Section 322.8 is added to the Health and Safety Code, to read:

322.8. On or before March 15, 1991, and on or before March 15 of each year thereafter, the state department shall submit a report to the Legislature on all of the following issues:

(a) The immunization status of young children in the state, based on available data.

(b) The steps taken to strengthen immunization efforts, particularly efforts through the Child Health and Disability Prevention Program.

(c) The steps taken to improve immunization levels among currently underserved minority children, young children in family day care and other child care settings, and children with no health insurance coverage.

(d) The improvements made in ongoing methods of immunization outreach and education in communities where immunization levels are disproportionately low.

(e) Its recommendations for a comprehensive strategy for fully immunizing all California children and its analysis of the funding necessary to implement the strategy.

CHAPTER 607

An act to amend Sections 13002 and 14902 of, and to add Section 14900.5 to, the Vehicle Code, relating to the Department of Motor Vehicles.

[Approved by Governor September 4, 1990 Filed with Secretary of State September 5, 1990]

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

SECTION 1. Section 13002 of the Vehicle Code is amended to read:

13002. (a) Except as otherwise provided in subdivision (b),

every identification card shall expire, unless canceled earlier, on the sixth birthday of the applicant following the date of application for the identification card. Renewal of any identification card, other than a senior citizen identification card, shall be made for a term which shall expire on the sixth birthday of the applicant following expiration of the identification card renewed, unless surrendered earlier. Any application for renewal received after 90 days after expiration of the identification card, including a senior citizen identification card, shall be considered the same as an application for an original identification card. The department shall, at the end of six years and six months after the issuance or renewal of an identification card, other than a senior citizen identification card, destroy any record of the card if it has expired and has not been renewed.

(b) Every senior citizen identification card issued pursuant to subdivision (b) of Section 13000 shall expire, unless canceled earlier, on the 10th birthday of the applicant following the date of application for the identification card. Renewal of any senior citizen identification card shall be made for a term which shall expire on the 10th birthday of the applicant following expiration of the senior citizen identification card renewed, unless surrendered earlier. The department shall, at the end of 10 years and six months after the issuance or renewal of a senior citizen identification card, destroy any record of the card if it has expired and has not been renewed.

(c) An identification card may be issued to a person in exchange for the person's driver's license which is surrendered to the department because the person has a physical or mental condition. That card is valid for the remaining term of the surrendered license without the payment of any additional fee.

SEC. 2. Section 14900.5 is added to the Vehicle Code, to read:

14900.5. Upon application and payment of the fees for a driver's license pursuant to Section 14900, an identification card may be issued to the applicant if it is determined that a driver's license cannot be issued due to the applicant's physical or mental condition. The identification card, unless canceled earlier, shall expire on the applicant's sixth birthday following the date of application.

SEC. 3. Section 14902 of the Vehicle Code is amended to read:

14902. (a) Except as otherwise provided in subdivision (b) of this section, subdivision (c) of Section 13002, and subdivision (c) of Section 14900, upon an application for an identification card there shall be paid to the department a fee of six dollars ($6).

(b) Upon application for an original senior citizen identification card, or for the renewal thereof, issued pursuant to subdivision (b) of Section 13000, there shall be paid to the department a fee of three dollars ($3).

(c) All fees received pursuant to this section shall be deposited in the Motor Vehicle Account.

CHAPTER 608

An act to add and repeal Article 1.5 (commencing with Section 1596.796) of Chapter 3.4 of Division 2 of the Health and Safety Code, relating to child day care facilities.

[Approved by Governor September 4, 1990. Filed with Secretary of State September 5, 1990]

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

SECTION 1. Article 1.5 (commencing with Section 1596.796) is added to the Health and Safety Code, to read:

Article 1.5. Child Care Review Panel

1596.796. (a) The Legislature finds and declares that short of judicial review, there is no recourse for child care providers to appeal citations issued for violations of child day care facility licensing regulations which they dispute outside of the community care licensing division of the department. The Legislature further finds and declares that judicial reviews are unnecessary, time consuming, and costly for both the department and providers. In enacting this article, it is the intent of the Legislature to establish a pilot program to assist child care providers in obtaining an early and objective review of citations issued for violations of child day care facility licensing regulations.

(b) The director shall establish the Child Care Review Panel in at least one of the 15 regional districts in the state. Where established, the panel shall provide objective review on cited violations of this code and Title 22 of the California Code of Regulations, as specified in Section 1596.797.

(c) The panel shall consist of the following members:

(1) One representative from the department appointed by the district manager of a regional district where the Child Care Review Panel is to be established.

(2) One representative from a local or district child care provider organization appointed for a regional district where the Child Care Review Panel is to be established by the Board of Governors of the California Community Colleges from names submitted to them by the provider organizations.

(3) One representative who has taught at a California community college in the educational area of child development appointed by the Board of Governors of the California Community Colleges.

(d) Members of the panel shall serve for a one-year term on an uncompensated basis. Every effort shall be made to ensure that the ethnic and racial composition of the review panel reflects the racial and ethnic composition of the population of the State of California.

1596.797. (a) The Child Care Review Panel shall meet no fewer

than four times a year. The scope of the panel's review includes cited violations of Article 6 (commencing with Section 101312) of, and Article 7 (commencing with Section 101338.2) of, Subchapter 1 of Chapter 2 of Division 12 of Title 22 of the California Code of Regulations, except Sections 101323.1 and 101329. The panel is also authorized to review the assessment of civil penalties for violations of the above articles and sections, except those issued for personal rights violations under Section 101223 of Title 22 of the California Code of Regulations.

(b) The panel shall have the authority to choose which violations it will review from those submitted for review. The panel shall set forth rules for licensees on the submission of matters for review and for determining which matters will be chosen for review. The rules shall provide that a licensee may request that a person of his or her choosing, other than an attorney, assist the licensee with his or her understanding of the English language in the preparation of matters for submission for review.

(c) No attorney at law or person other than the licensee and the department shall take any part in the filing or presentation of matters before the panel, unless the attorney is the licensee or a general partner in a partnership which is the licensee and in which all the partners are attorneys, or a shareholder in a professional corporation which is a licensee and of which he or she is an officer or director and of which all other officers and directors are attorneys. Nothing herein shall prevent an attorney from rendering advice to a party to the review prior to the filing and presentation of the matter. However, if the panel determines from the written materials submitted to it that a licensee does not speak or understand the English language sufficiently to comprehend or properly present his or her case and needs assistance in so doing, the panel may permit another person, other than an attorney, to assist the party.

1596.798. (a) No matter may be reviewed by the Child Care Review Panel unless the licensee has exhausted his or her appeal rights before the Licensing District Manager, the Chief Field Operations Branch Manager, and the Deputy Director.

(b) Notice of review and whether or not the violations will be reviewed shall be given to all parties who have submitted matters for review at least 10 calendar days prior to the date of review.

(c) The panel shall make findings on the disputed issues and make recommendations to the deputy director on the violations or civil penalties at issue. The deputy director shall review the recommendations in a timely fashion. Any action taken by the deputy director shall be placed in the public file of the facility.

(d) Review by the panel of violations or civil penalties does not deprive the department of its authority to institute or continue a proceeding against the licensee for the revocation of the license upon any ground provided by law or to enter an order disciplining a licensee upon that ground.

(e) Licensees retain the right to contact the deputy director on

any issues related to the operation of the licensed facility.

1596.799. (a) The department shall report to the Senate Appropriations, Assembly Ways and Means, Senate Health and Human Services, and Assembly Human Services committees of the Legislature on or before December 31, 1993, regarding the ability of the Child Care Review Panel to reduce administrative time and costs associated with disputes regarding violations of child day care facility licensing regulations and to resolve the disputes in a just and timely fashion.

(b) This article shall become inoperative on June 30, 1994, and, as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 609

An act to add Section 69749.4 to the Government Code, relating to courts.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 69749.4 is added to the Government Code, to read:

69749.4. Notwithstanding any other provision of this article, sessions of the superior court shall be held in the Indian Wells Valley area of northeast Kern County at such times as may be prescribed by the judges.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 610

An act to amend Sections 4600, 4600.1, and 4608 of the Civil Code, relating to family law.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 4600 of the Civil Code is amended to read:

4600. (a) The Legislature finds and declares that it is the public policy of this state to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy, except where that contact would not be in the best interest of the child, as set forth in Section 4608.

In any proceeding where there is at issue the custody of a minor child, the court may, during the pendency of the proceeding or at any time thereafter, make such order for the custody of the child during minority as may seem necessary or proper. If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody, the court shall consider and give due weight to the wishes of the child in making an award of custody or modification thereof. In determining the person or persons to whom custody should be awarded under paragraph (2) or (3) of subdivision (b), the court shall consider and give due weight to the nomination of a guardian of the person of the child by a parent under Article 1 (commencing with Section 1500) of Chapter 1 of Part 2 of Division 4 of the Probate Code.

(b) Custody should be awarded in the following order of preference according to the best interests of the child pursuant to Section 4608:

(1) To both parents jointly pursuant to Section 4600.5 or to either parent. In making an order for custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, subject to Section 4608, and shall not prefer a parent as custodian because of that parent's sex.

The court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order.

(2) If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.

(3) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

(c) Before the court makes any order awarding custody to a person or persons other than a parent, without the consent of the

parents, it shall make a finding that an award of custody to a parent would be detrimental to the child and the award to a nonparent is required to serve the best interests of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue.

(d) This section establishes neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan which is in the best interests of the child or children.

SEC. 2. Section 4600.1 of the Civil Code is amended to read:

4600.1. (a) In any proceeding under Title 2 (commencing with Section 4400) or Title 3 (commencing with Section 4500) where there are minor children of the marriage, and in any action for exclusive custody under Section 4603, a petition for a temporary custody order containing the statement required by Section 5158 may be included with the initial filing of the petition or action or may be filed at any time thereafter.

(b) If the parties have agreed to or reached an understanding on the custody or temporary custody of their children, a copy of the agreement or an affidavit as to their understanding shall be attached to the petition or action. As promptly as possible after this filing, the court shall, except in exceptional circumstances, enter an order awarding temporary custody in accordance with the agreement or understanding, or in accordance with any stipulation of the parties.

(c) In the absence of an agreement, understanding, or stipulation, the court may, if jurisdiction is appropriate, enter an ex parte order, set a hearing date within 20 days, and issue an order to show cause on the responding party. If the responding party does not appear or respond within the time set, the temporary order may be extended as necessary, pending the termination of the proceedings.

(d) If, despite good faith efforts, service of the ex parte order and order to show cause has not been effected in a timely fashion and there is reason to believe, based on an affidavit, or other manner of proof made under penalty of perjury, by the petitioner, that the responding party has possession of the minor child or children and seeks to avoid the jurisdiction of the court or is concealing the whereabouts of the child or children, then the hearing date may be reset and the ex parte order extended up to an additional 90 days. After service has been effected, either party may request ex parte that the hearing date be advanced or the ex parte order be dissolved or modified.

(e) In conjunction with any ex parte order seeking or modifying an order of custody, the court shall enter an order restraining the person receiving custody from removing the child from the state pending notice and a hearing on the order seeking or modifying custody. The court shall refrain from making any order granting or

modifying a custody order on an ex parte basis unless there has been a showing of immediate harm to the child or immediate risk that the child will be removed from the State of California. "Immediate harm to the child" includes having a parent who has committed acts of domestic violence, as defined in Section 542 of the Code of Civil Procedure, where the court determines that the acts of domestic violence are of recent origin, or are a part of a demonstrated and continuing pattern of acts of domestic violence.

SEC. 3. Section 4608 of the Civil Code is amended to read:

4608. In making a determination of the best interest of the child in any proceeding under this title, the court shall, among any other factors it finds relevant, consider all of the following:

(a) The health, safety, and welfare of the child.

(b) Any history of abuse by one parent against the child or against the other parent. As a prerequisite to the consideration of allegations of abuse, the court may require substantial independent corroboration including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, "abuse against the child" means child abuse as defined in Section 11165.6 of the Penal Code and "abuse against the other parent" means abuse as defined in subdivision (a) of Section 542 of the Code of Civil Procedure.

(c) The nature and amount of contact with both parents.

CHAPTER 611

An act to repeal and add Section 1404 of the Elections Code, relating to elections.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 1404 of the Elections Code is repealed.

SEC. 2. Section 1404 is added to the Elections Code, to read:

1404. (a) The opening, processing, and counting of absent voter ballots shall be open to the public, both prior to and after the election.

(b) Any member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with a candidate on the ballot, and any other interested organization, shall be permitted to observe and challenge the manner in which the absent voter ballots are processed, from the opening through the

counting and disposition of the ballots.

(c) The county clerk shall notify absentee voter observers and the public at least 48 hours in advance of the dates, times, and places where absentee ballots will be opened, processed, and counted.

(d) Absentee voter observers shall be allowed close enough access to enable them to observe and challenge whether those individuals handling absentee ballots are following established procedures, including:

(1) Verifying signatures and addresses by comparing them to voter registration information.

(2) Duplicating accurately any damaged or defective ballots.

(3) Securing absentee ballots to prevent any tampering with them before they are counted on election day.

(e) No absentee voter observer shall interfere with the orderly processing and counting of absentee ballots, including touching or handling of the ballots.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 612

An act to amend Sections 23985.5, 24013, and 24072.5 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 23985.5 of the Business and Professions Code is amended to read:

23985.5. Notwithstanding any other provision of this article, in any instance affecting the issuance of any retail license at a premises which is not currently licensed or for a different retail license, the department shall require that the applicant mail notification of the application to every resident of real property within a 500-foot radius of the premises for which the license is to be issued. The applicant shall submit proof of compliance to the department prior to license

approval.

SEC. 2. Section 24013 of the Business and Professions Code is amended to read:

24013. Protests may be filed at any office of the department at any time within 30 days from the first date of posting the notice of intention to engage in the sale of alcoholic beverages at the premises, or within 30 days of the mailing of the notification pursuant to Section 23985.5, whichever is later.

The department may reject protests, except protests made by a public agency or public official or protests made by the governing body of a city or county, if it determines the protests are false, vexatious, or without reasonable or probable cause at any time before hearing thereon, notwithstanding Section 24016 or 24300. If the department rejects a protest as provided in this section and issues a license, a protestant whose protest has been rejected may, within 10 days after the issuance of the license, file an accusation with the department alleging the grounds of protest as a cause for revocation of the license and the department shall hold a hearing as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Nothing in this section shall be construed as prohibiting or restricting any right which the individual making the protest might have to a judicial proceeding.

SEC. 3. Section 24072.5 of the Business and Professions Code is amended to read:

24072.5. Any person who has any on-sale general license may exchange his license for a special on-sale general license and any person who has a special on-sale general license may exchange his license for an on-sale general license. The exchange may be made at any time upon the approval of the department, the payment of an exchange fee of one hundred dollars ($100), and compliance with the provisions of this division relating to the issuance of an original license. However, Sections 23985, 23985.5, and 23986 shall not apply to the exchange of an on-sale general license for a special on-sale general license. All money collected from the fee provided for in this section shall be deposited directly in the General Fund in the State Treasury, rather than in the Alcohol Beverage Control Fund as provided in Section 25761.

CHAPTER 613

An act to amend Section 33213 of the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 33213 of the Public Resources Code is amended to read:

33213. (a) The Santa Monica Mountains Conservancy Advisory Committee is hereby created. The advisory committee consists of 16 members, as follows:

(1) Five representatives of local governments from jurisdictions including the Santa Monica Mountains, one of whom shall be appointed by the Mayor of the City of Los Angeles, one of whom shall be appointed by the Board of Supervisors of the County of Los Angeles, one of whom shall be appointed by the City Council of the City of Thousand Oaks, one of whom shall be appointed by the Board of Supervisors of the County of Ventura, and one of whom shall be jointly appointed by the City Councils of the Cities of Agoura Hills and Westlake Village.

(2) Six public members, two of whom shall be appointed by the Governor, two of whom shall be appointed by the Senate Committee on Rules, and two of whom shall be appointed by the Speaker of the Assembly.

(3) The Chairperson of the Santa Monica Mountains National Recreation Area Advisory Commission selected by the National Recreation Area Advisory Commission.

(4) One representative of the Rancho Simi Recreation and Park District, to be appointed by the district board of directors.

(5) One representative of the Conejo Recreation and Park District, to be appointed by the district board of directors.

(6) One representative of the Pleasant Valley Recreation and Park District, to be appointed by the district board of directors.

(7) One representative of the City of Santa Clarita, to be appointed by the city council.

Every effort shall be made to ensure that the ethnic and racial composition of the advisory committee reflects the racial and ethnic composition of the population of the State of California.

(b) The advisory committee shall select from among its members a chairperson and a vice chairperson.

(c) The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(d) The advisory committee has the following duties:

(1) Propose and review projects for conservancy action and

report to the conservancy regarding the conformity of the projects with the plan.

(2) Review proposed amendments to the plan.

(3) Provide opportunities for public participation.

(e) A majority of the total authorized membership of the advisory committee constitutes a quorum for the transaction of any business of the advisory committee.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 614

An act to add Section 1.5 to the American River Flood Control District Act (Chapter 808 of the Statutes of 1927), relating to the American River Flood Control District.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 1.5 is added to the American River Flood Control District Act (Chapter 808 of the Statutes of 1927), to read:

Sec. 1.5. (a) The boundaries of and territory included within the district shall incorporate the parcels which comprise State Maintenance Area 10, as established by the Reclamation Board under a resolution adopted September 17, 1958, and recorded September 25, 1958, in Book 3595, page 288 and following, Official Records of Sacramento County.

(b) The boundaries of and territory included within the district shall further incorporate the parcels which comprise State Maintenance Area 11, as modified by the Reclamation Board under a resolution adopted January 7, 1960, and recorded January 14, 1960, in Book 3977, page 217 and following, Official Records of Sacramento County.

(c) State Maintenance Areas 10 and 11, as referred to in subdivisions (a) and (b), shall be dissolved only upon the execution of the assurance agreement or agreements and assumption of project levee maintenance responsibilities by the district for the state maintenance areas, or by a member agency which is signatory to the assurance agreement, in accordance with Sections 12642 and 12828 of the Water Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school

district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 615

An act to add Section 18613.6 to the Health and Safety Code, relating to mobilehomes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990.]

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

SECTION 1. The Legislature finds and declares that, in view of the damage and destruction suffered by manufactured homes and mobilehomes in the Loma Prieta earthquake of October 17, 1989, the need to ensure, in the event of a future earthquake, the safety of the supporting structures and utility connections of these homes, is of the utmost concern.

SEC. 2. Section 18613.6 is added to the Health and Safety Code, to read:

18613.6. (a) The department shall conduct a study on the safety of foundation systems and supporting structures for, and utility connection devices to, manufactured homes and mobilehomes under earthquake conditions. In conducting the study, the department may utilize testimony and information gathered through public hearings and consult with representatives of local government, other state agencies, the mobilehome industry, and public utilities.

(b) The study may address, but shall not be limited to, all of the following:

(1) An analysis of the type and extent of damage to homes, including damage by fire, and the types of damage, which render manufactured homes and mobilehomes irreparable.

(2) The extent to which damage to utility connections to the home, such as natural gas lines, cause fire or damage to manufactured homes and mobilehomes.

(3) The ability of various types of foundation and support systems to withstand major earthquake forces, including the effectiveness of axles and wheels, which are left on a manufactured home or mobilehome upon installation, in limiting damage to the home.

(4) The extent and cost of repairs to, or replacement of, manufactured homes and mobilehomes damaged because support systems failed or were damaged in an earthquake.

(5) Any other information the department deems pertinent to the

safety of mobilehomes or manufactured homes under earthquake conditions.

(c) On or before April 1, 1991, the department shall report, in writing, to the Legislature, the findings of the study required by this section and, based on the findings, make any recommendations for regulatory changes or legislation needed to improve the safety of manufactured homes and mobilehomes in the event of an earthquake.

SEC. 3. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the Mobilehome Parks Revolving Fund to the Department of Housing and Community Development for the purposes of Section 18613.6 of the Health and Safety Code.

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

In order to review the earthquake safety of manufactured homes and mobilehomes, and to enable the Legislature to enact safety measures deemed necessary as soon as possible to prevent further damage and injury in future earthquakes, it is necessary that this act take immediate effect.

CHAPTER 616

An act to amend Sections 1200 and 1201.5 of the Corporations Code, relating to corporations.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990.]

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

SECTION 1. Section 1200 of the Corporations Code is amended to read:

1200. A reorganization (Section 181) or a share exchange tender offer (Section 183.5) shall be approved by the board of:

(a) Each constituent corporation in a merger reorganization;

(b) The acquiring corporation in an exchange reorganization;

(c) The acquiring corporation and the corporation whose property and assets are acquired in a sale-of-assets reorganization;

(d) The acquiring corporation in a share exchange tender offer (Section 183.5); and

(e) The corporation in control of any constituent or acquiring corporation under subdivision (a), (b) or (c) and whose equity securities are issued or transferred in the reorganization (a "parent party").

SEC. 2. Section 1201.5 of the Corporations Code is amended to read:

1201.5. (a) The principal terms of a share exchange tender offer (Section 183.5) shall be approved by the outstanding shares (Section 152) of each class of the corporation making the tender offer or whose shares are to be used in the tender offer, except as provided in subdivision (b) and except that (unless otherwise provided in the articles) no approval of any class of outstanding preferred shares of either corporation shall be required, if the rights, preferences, privileges, and restrictions granted to or imposed upon that class of shares remain unchanged. For the purpose of this subdivision, two classes of common shares differing only as to voting rights shall be considered as a single class of shares.

(b) No approval of the outstanding shares (Section 152) is required by subdivision (a) in the case of any corporation if the corporation, or its shareholders immediately before the tender offer, or both, shall own (immediately after the completion of the share exchange proposed in the tender offer) equity securities, (other than any warrant or right to subscribe to or purchase the equity securities), of the corporation making the tender offer or of the corporation whose shares were used in the tender offer, possessing more than five-sixths of the voting power of either corporation. In making the determination of ownership by the shareholders of a corporation, immediately after the tender offer, of equity securities pursuant to the preceding sentence, equity securities which they owned immediately before the tender offer as shareholders of another party to the transaction shall be disregarded. For the purpose of this section only, the voting power of a corporation shall be calculated by assuming the conversion of all equity securities convertible (immediately or at some future time) into shares entitled to vote but not assuming the exercise of any warrant or right to subscribe to, or purchase, shares.

CHAPTER 617

An act to amend Section 6409.1 of the Labor Code, relating to occupational safety and health.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990.]

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

SECTION 1. Section 6409.1 of the Labor Code is amended to read:

6409.1. (a) Every employer shall file a complete report of every occupational injury or occupational illness, as defined in subdivision (b) of Section 6409, to each employee which results in lost time beyond the date of the injury or illness, or which requires medical treatment beyond first aid, with the Department of Industrial

Relations, through its Division of Labor Statistics and Research or, if an insured employer, with the insurer. The report filed shall be the original of the form prescribed for that purpose by the Division of Labor Statistics and Research. A report shall be filed concerning each injury and illness which has, or is alleged to have, arisen out of and in the course of employment, within five days after the employer obtains knowledge of the injury or illness. Each report of occupational injury or occupational illness shall indicate the social security number of the injured employee. In the case of an insured employer, the insurer shall file with the division immediately upon receipt, the original of the employer's report, which has been received from the insured employer. In the event an employer has filed a report of injury or illness pursuant to this subdivision and the employee subsequently dies as a result of the reported injury or illness, the employer shall file an amended report indicating the death with the Department of Industrial Relations, through its Division of Labor Statistics and Research or, if an insured employer, with the insurer, within five days after the employer is notified or learns of the death. The original of any amended reports received by the insurer shall be filed with the division immediately upon receipt.

(b) In every case involving a serious injury or illness, or death, in addition to the report required by subdivision (a), a report shall be made immediately by the employer to the Division of Occupational Safety and Health by telephone or telegraph.

CHAPTER 618

An act to amend Section 6511 of the Labor Code, relating to occupational safety and health.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 6511 of the Labor Code is amended to read:

6511. (a) Notwithstanding Sections 6317 and 6434, any employer, except an employer that is a governmental entity, who violates this chapter or any standard, rule, order, or regulation adopted to implement this chapter, shall be assessed a civil penalty under the appropriate provisions of Sections 6427 to 6430, inclusive, except that in no case shall the penalty be less than two hundred fifty dollars ($250).

(b) Abatement periods fixed by the division pursuant to Section 6317 for violations of this chapter or any standard, rule, order, or regulation adopted to implement this chapter, shall be limited to two working days.

(c) The filing of an appeal with the appeals board pursuant to

Sections 6319 and 6600 shall not stay the abatement period fixed by the division for a violation of this chapter or any standard, rule, order, or regulation adopted to implement this chapter.

(d) The division shall consult with the Legislative Analyst regarding the data that should be collected to evaluate the effect of subdivisions (a), (b), and (c) on the occupational safety and health of employees and the reduction of hazards at worksites where permits are required, and shall provide necessary data to the Legislative Analyst by October 1, 1994. The Legislative Analyst shall assess the information and report its findings in the 1995–96 Analysis of the Budget Bill.

(e) 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.

CHAPTER 619

An act to add Section 4497.05 to the Penal Code, relating to county jail facilities.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 4497.05 is added to the Penal Code, to read:

4497.05. Money in the 1986 County Correctional Facility Capital Expenditure Fund and money in the 1988 County Correctional Facility Capital Expenditure and Youth Facility Bond Fund may be used on the same project so long as the project is consistent with the purposes set forth in Sections 4485 and 4496.12 and is subject to the restrictions and requirements set forth in subdivision (f) of Section 4497.04. The deadlines applicable under this title shall be applicable to the joint use of funds under this section.

CHAPTER 620

An act to amend Sections 69506, 69506.5, and 69535 of, to add Sections 69506.3 and 69506.6 to, to repeal and add Article 9 (commencing with Section 69670) to Chapter 2 of Part 42 of, and to repeal Section 69505 of, the Education Code, relating to student financial aid programs.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990.]

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

SECTION 1. Section 69505 of the Education Code is repealed.

SEC. 2. Section 69506 of the Education Code is amended to read:

69506. (a) The methodology set forth in federal law or regulation shall serve as the formula for determining the expected family contribution of students seeking any state-funded financial assistance.

(b) For the purposes of determining the dependent and independent status of students, the definition set forth in the federal law or regulation shall serve as the definition for students seeking any state-funded financial assistance.

SEC. 3. Section 69506.3 is added to the Education Code, to read:

69506.3. It is the intent of the Legislature that the commission, commencing with the 1991–92 academic year, shall implement the income verification process authorized in Section 19286.9 of the Revenue and Taxation Code, and develop procedures which allow postsecondary educational institutions to use information obtained through that process.

SEC. 4. Section 69506.5 of the Education Code is amended to read:

69506.5. Notwithstanding Section 69506, the Student Aid Commission may, whenever it is determined to be in the best interest of the state, develop and adopt regulations that modify the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking any state-funded financial assistance or the federal definition for establishing the dependent and independent status of students seeking any state-funded financial assistance. It is the Legislature's intent that these regulations promote consistency between federal and state standards, encourage the maximum contribution from parents while being sensitive to individual student financial and personal circumstances, and encourage a simple financial aid application process.

(a) Prior to adopting regulations pursuant to this section, the commission shall convene an advisory committee for the purposes of seeking recommendations on the methodology for determining expected family contribution or the criteria for student dependency status. The committee, which shall be an existing committee, shall comprise representatives of the financial aid community including students, financial aid officers, representatives of the postsecondary education segments, and the California Postsecondary Education Commission.

(b) The regulations developed pursuant to this section shall be adopted as Student Aid Commission 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.

(c) Prior to adopting or amending regulations pursuant to this section, the commission shall conduct, and make public, a full analysis which includes at least an examination and explanation of the cost of the change, the effect on student applicant and recipient eligibility and award levels, and the effects of implementing the criteria on those programs administered by the commission.

(d) Not later than July 1 of the year following any modifications to the methodology for determining expected family contribution or the federal definition of student dependence or independence made pursuant to this section, the commission shall report to the Governor and the Legislature the impact of the changes on those programs administered by the commission.

SEC. 5. Section 69506.6 is added to the Education Code, to read:

69506.6. (a) The Student Aid Commission shall, in consultation with representatives of the University of California, the California State University, the California Community Colleges, independent colleges and universities, proprietary institutions, and student associations, consider and make recommendations on the simplification of the financial aid application process. It shall be the charge of the commission to examine methods of making the financial aid application process more accessible to low-income and disadvantaged students and their families. In order to maintain an equitable distribution of financial aid, the recommendations of the commission shall ensure that adequate financial information is available to establish a sufficient contribution from the income and resources of students and their families.

(b) It is the intent of the Legislature that the recommendations developed by the commission be congruent with and wherever possible influence the development of a simplified federal financial aid delivery process.

(c) The charge of the commission shall include, but not be limited to, examining and making recommendations in the following areas:

(1) The feasibility of allowing low-income students to use a separate, simplified application form to apply for financial aid.

(2) The feasibility of streamlining the financial aid application process for students from families which participate in other federal or state assistance programs, such as AFDC, medicaid, food stamp, and subsidized housing programs.

(3) Alternative procedures for obtaining the financial information used by educational institutions in the award of student financial aid.

(4) The application cost for students from low-income families.

(d) The commission shall consult with authorized financial need analysis processors in developing its findings and recommendations.

(e) In order that the recommendations may be considered in the development of the 1992–93 Student Aid Application for California, the commission shall report its findings and recommendations to the appropriate policy committees of the Legislature by July 1, 1991.

SEC. 6. Section 69535 of the Education Code is amended to read:

69535. (a) Cal Grant Program awards shall be based upon the financial need of the applicant. The level of financial need of each applicant shall be determined by the commission pursuant to Article 1.5 (commencing with Section 69503).

(b) For the applicants so qualifying, academic criteria or criteria related to past performances shall be utilized as the criteria in determining eligibility for grants.

(c) All Cal Grant Program award recipients shall be residents of California, as determined by the commission pursuant to the provisions of Part 41 (commencing with Section 68000), and shall remain eligible only if they are in attendance and making satisfactory progress through the instructional programs, as determined by the commission.

(d) Part-time students shall not be discriminated against in the selection of Cal Grant Program award recipients, and awards to part-time students shall be roughly proportional to the time spent in the instructional program, as determined by the commission. First-time Cal Grant Program award recipients who are part-time students shall be eligible for a full-time renewal award.

(e) Cal Grant Program awards shall be awarded without regard to race, religion, creed, sex, or age.

(f) No applicant shall receive more than one type of Cal Grant Program award concurrently. Except as provided in subdivisions (b) and (c) of Section 69535.1, no applicant shall:

(1) Receive one or a combination of Cal Grant Program awards in excess of a total of four years of full-time attendance in an undergraduate program.

(2) Have obtained a baccalaureate degree prior to receiving a Cal Grant Program award.

(g) Cal Grant Program awards, except as provided in subdivision (c) of Section 69535.1, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate.

(h) The commission may, for students who accelerate college attendance, increase the amount of award for one academic year proportional to the period of additional attendance resulting from attendance at a summer term, session, or quarter. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(i) The commission may provide by appropriate rules and regulations for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as the commission may deem proper.

(j) The commission may establish Cal Grant Program awards in one hundred dollar ($100) increments.

(k) A Cal Grant Program award may be utilized only at a California postsecondary educational institution or program that participates in two of the three federal campus-based student aid

programs and whose students participate in the Pell Grant program.

SEC. 7. Article 9 (commencing with Section 69670) of Chapter 2 of Part 42 of the Education Code is repealed.

SEC. 8. Article 9 (commencing with Section 69670) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 9. State Graduate Fellowship Program

69670. The Legislature finds and declares all of the following:

(a) Because of financial and historical conditions, numerous students with substantial potential for success in graduate school are unable to pursue a graduate education and attain their full educational potential.

(b) It is further recognized that financial assistance is required to reduce the economic barriers which prevent these students from pursuing graduate education.

(c) It is to the economic and societal benefit of the state to assist in the development of the talents of able students in graduate education, and the Legislature regards the graduate education of qualified individuals within the state to be a public purpose of great importance.

(d) In contrast to the reduction in the rate of hiring faculty during the 1970's and 1980's, the next two decades will require a dramatic expansion in the hiring of college and university faculty.

(e) While California is becoming an increasingly multicultural society, Blacks, Asians, Native Americans, Hispanics, and females continue to be underrepresented in graduate education and among college and university faculty.

(f) It is imperative that the State of California ensure that it has the largest possible pool of highly qualified graduate students from which to draw future university and college faculty, particularly students from underrepresented groups and students entering subject fields with severe faculty shortages.

(g) The State Graduate Fellowship Program is a desirable and economical method of furthering these public purposes.

69671. (a) There is hereby created the State Graduate Fellowship Program. Fellowships shall be provided by the state under this program, and shall be awarded to students who have demonstrated their intent to become a college or university faculty member.

(b) Fellowships shall be utilized for graduate study at California colleges and universities accredited by a regional accrediting association recognized by the United States Department of Education.

(c) As used in this article, "graduate study" means that phase of education coming after the completion of the baccalaureate degree and leading toward a recognized graduate degree.

(d) The general purpose of the fellowship program is to afford opportunity for graduate study to persons demonstrating potential

for success in graduate-level programs and intending to become college and university faculty.

(e) Graduate fellowships shall be awarded for graduate study in degree programs and subject fields determined by the commission to be consistent with the purposes of this article.

69672. (a) It is the intent of the Legislature that all graduate fellowships awarded prior to the 1991–92 academic year under the provisions of Article 9 (commencing with Section 69670) of Chapter 2 of Part 42 as it read prior to January 1, 1991, shall be renewed pursuant to the terms specified in Section 69678 of this article.

(b) It is further the intent of the Legislature that, commencing with the 1991–92 academic year, all new graduate fellowships shall be awarded to persons intending to become a college or university faculty member.

69673. (a) The graduate fellowship program shall be conducted under the general supervision of the commission, with the aid and advice of a committee of 10 members appointed by the commission and composed of graduate deans, faculty, and graduate students from California colleges and universities.

(b) In order to implement the changes in subdivision (b) of Section 69672, the committee shall present to the commission recommendations on procedures for the selection of graduate fellowship recipients who demonstrate substantial potential for success in graduate school.

(c) The committee shall recommend to the commission procedures to expand the applicant pool to include more applications from students who are from groups which are underrepresented in graduate-level programs and among college and university faculty.

69674. (a) The commission shall award fellowships to students with demonstrated academic ability and financial need, as determined by the commission pursuant to Article 1.5 (commencing with Section 69503).

(b) The commission shall award fellowships without regard to race, religion, creed, or sex.

(c) The commission shall give priority consideration to students who are historically disadvantaged, as defined by the commission, or students from groups which are underrepresented in graduate-level programs and among college and university faculty.

(d) The commission shall award fellowships to students who demonstrate a commitment to and assurances of becoming a college or university faculty member.

(e) The commission shall prescribe the forms for all applications and certificates required in connection with the fellowship program.

(f) The commission shall adopt rules and regulations as may be necessary, or appropriate, for effecting the provisions of this article.

69675. (a) The commission may utilize the following criteria in selecting award recipients:

(1) Grades at the undergraduate level in the subject field in which

the student intends to complete graduate work.

(2) Grades in the undergraduate program.

(3) Aptitude for graduate work in the subject field.

(4) General aptitude for graduate study.

(5) Critical human resource needs in subject fields eligible for graduate fellowships.

(b) The commission may develop additional criteria for the selection of award recipients consistent with the purposes of this article.

69676. No person shall be granted a fellowship unless:

(a) The applicant is a resident of California.

(b) The applicant has been accepted for admission by a graduate school, or is a continuing student enrolled in graduate school.

69677. (a) Awards shall be for one academic year of graduate study, and may be renewed for up to three additional years if the recipient is making satisfactory progress toward a degree as defined by the commission. The commission may extend renewal of awards for fellowship recipients who demonstrate that exceptional circumstances exist.

(b) The commission may increase the amount of the award for one academic year proportional to the period of additional attendance during a summer term. In the aggregate, the total amount of eligibility a student may receive pursuant to subdivision (a) may not be increased as a result of accelerating the progress to a degree by attending summer terms.

(c) Except as provided in subdivision (d), awards shall be made for full-time graduate study, as defined by the institution which the student attends.

(d) Awards may be provided for part-time graduate study. Part-time awards shall be proportionate to the student's enrollment in a full-time graduate program.

(e) The award may be in a lump sum or in periodic payments as determined by the commission.

69678. (a) The commission may authorize participating colleges and universities to nominate graduate fellowship applicants or recipients.

(b) Each participating college or university shall comply with all applicable rules, regulations, and guidelines for administration of the graduate fellowship program.

69679. Graduate fellowship recipients shall comply with all rules and regulations adopted by the commission for the administration of the State Graduate Fellowship Program pursuant to this article.

69680. It is the intent of the Legislature that there shall be graduate fellowships, including renewals, for each academic year equal in number to at least 2 percent of the total number of baccalaureate degrees awarded during the most recent academic year by colleges and universities located in California.

SEC. 9. No provision of this act shall apply to the University of California unless the Regents of the University of California, by

resolution, make that provision applicable.

SEC. 10. 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 621

An act to amend Sections 391 and 391.1 of, and to add Section 391.7 to, the Code of Civil Procedure, relating to vexatious litigants.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 391 of the Code of Civil Procedure is amended to read:

391. As used in this title, the following terms have the following meanings:

(a) "Litigation" means any civil action or proceeding, commenced, maintained or pending in any state or federal court of record.

(b) "Vexatious litigant" means a person who does any of the following:

(1) In the immediately preceding seven-year period has commenced, prosecuted, or maintained in propria persona at least five litigations other than in a small claims court that have been (i) finally determined adversely to the person or (ii) unjustifiably permitted to remain pending at least two years without having been brought to trial or hearing.

(2) After a litigation has been finally determined against the person, repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant or defendants as to whom the litigation was finally determined or (ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant or defendants as to whom the litigation was finally determined.

(3) In any litigation while acting in propria persona, repeatedly

files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay.

(4) Has previously been declared to be a vexatious litigant by any state or federal court of record in any action or proceeding based upon the same or substantially similar facts, transaction, or occurrence.

(c) "Security" means an undertaking to assure payment, to the party for whose benefit the undertaking is required to be furnished, of the party's reasonable expenses, including attorney's fees and not limited to taxable costs, incurred in or in connection with a litigation instituted, caused to be instituted, or maintained or caused to be maintained by a vexatious litigant.

(d) "Plaintiff" means the person who commences, institutes or maintains a litigation or causes it to be commenced, instituted or maintained, including an attorney at law acting in propria persona.

(e) "Defendant" means a person (including corporation, association, partnership and firm or governmental entity) against whom a litigation is brought or maintained or sought to be brought or maintained.

SEC. 2. Section 391.1 of the Code of Civil Procedure is amended to read:

391.1. In any litigation pending in any court of this state, at any time until final judgment is entered, a defendant may move the court, upon notice and hearing, for an order requiring the plaintiff to furnish security. The motion must be based upon the ground, and supported by a showing, that the plaintiff is a vexatious litigant and that there is not a reasonable probability that he will prevail in the litigation against the moving defendant.

SEC. 3. Section 391.7 is added to the Code of Civil Procedure, to read:

391.7. (a) In addition to any other relief provided in this title, the court may, on its own motion or the motion of any party, enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding judge of the court where the litigation is proposed to be filed. Disobedience of such an order by a vexatious litigant may be punished as a contempt of court.

(b) The presiding judge shall permit the filing of such litigation only if it appears that the litigation has merit and has not been filed for the purposes of harassment or delay. The presiding judge may condition the filing of the litigation upon the furnishing of security for the benefit of the defendants as provided in Section 391.3.

(c) The clerk shall not file any litigation presented by a vexatious litigant subject to a prefiling order unless the vexatious litigant first obtains an order from the presiding judge permitting the filing. If the clerk mistakenly files the litigation without such an order, any party may file with the clerk and serve on the plaintiff and other parties a notice stating that the plaintiff is a vexatious litigant subject to a

prefiling order as set forth in subdivision (a). The filing of such a notice shall automatically stay the litigation. The litigation shall be automatically dismissed unless the plaintiff within 10 days of the filing of such notice obtains an order from the presiding judge permitting the filing of the litigation as set forth in subdivision (b). If the presiding judge issues an order permitting the filing, the stay of the litigation shall remain in effect, and the defendants need not plead, until 10 days after the defendants are served with a copy of any such order.

(d) The clerk of the court shall provide the Judicial Council a copy of any prefiling orders issued pursuant to subdivision (a). The Judicial Council shall maintain a record of vexatious litigants subject to such prefiling orders and shall annually disseminate a list of such persons to the clerks of the courts of this state.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 622

An act to amend Sections 2920, 2946, 2948, 2980, 2987, and 2995 of the Business and Professions Code, relating to psychology, and making an appropriation therefor.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990.]

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

SECTION 1. Section 2920 of the Business and Professions Code is amended to read:

2920. The Board of Psychology of the Medical Board of California of the Department of Consumer Affairs shall administer this chapter. The board shall consist of eight members, three of whom shall be public members.

SEC. 2. Section 2946 of the Business and Professions Code is amended to read:

2946. The board shall grant a license without examination to any person who, at the time of application is licensed or certified by a

psychology licensing authority in another state if the requirements for obtaining a certificate or license in that state were substantially equivalent to the requirements of this chapter.

A psychologist certified or licensed in another state and who has made application to the board for a license in this state may perform activities and services of a psychological nature without a valid license for a period not to exceed 180 calendar days from the time of submitting his or her application or from the commencement of residency in this state, whichever first occurs.

The board at its discretion may waive those parts of the examination, including either the whole of the written or the oral examinations, when in the judgment of the board the applicant has already demonstrated competence in areas covered by those parts of the examination. The board at its discretion may waive the examination for diplomates of the American Board of Examiners in Professional Psychology or psychologists who have made a significant contribution to psychology and have had at least 10 years of experience.

SEC. 3. Section 2948 of the Business and Professions Code is amended to read:

2948. The board shall issue a license to all applicants who meet the requirements of this chapter and who pay to the division the initial license fee provided in Section 2987.

SEC. 4. Section 2980 of the Business and Professions Code is amended to read:

2980. There is in the State Treasury the Psychology Fund. The division shall report to the Controller at the beginning of each calendar month for the month preceding the amount and source of all revenue received by it on behalf of the board, pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit into that fund. All revenue received by the board and the division from fees authorized to be charged relating to the practice of psychology shall be deposited into that fund as provided in this section.

SEC. 5. Section 2987 of the Business and Professions Code is amended to read:

2987. The amount of the fees prescribed by this chapter shall be determined by the board, and shall be as follows:

(a) The application fee for a psychologist shall not be more than fifty dollars ($50).

(b) The examination fee for a psychologist shall not be more than one hundred fifty dollars ($150).

(c) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

(d) The biennial renewal fee for a psychologist shall be two

hundred twenty-five dollars ($225).

(e) The application fee for registration and supervision of a psychological assistant by a supervisor under Section 2913, which is payable by such supervisor, shall not be more than seventy-five dollars ($75).

(f) The annual renewal fee for registration of a psychological assistant shall not be more than seventy-five dollars ($75).

(g) The duplicate license or registration fee is five dollars ($5).

(h) The delinquency fee is twenty-five dollars ($25).

(i) The endorsement fee is five dollars ($5).

SEC. 6. Section 2995 of the Business and Professions Code is amended to read:

2995. A psychological corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors and employees rendering professional services who are psychologists, podiatrists, registered nurses, optometrists, marriage, family, and child counselors, licensed clinical social workers, or physicians are in compliance with the Moscone-Knox Professional Corporation Act, this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to that corporation and the conduct of its affairs.

With respect to a psychological corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Psychology of the Medical Board of California.

CHAPTER 623

An act to amend Section 18101.6 of, and to add Section 18003.1 to, the Financial Code, relating to industrial loan companies.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990.]

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

SECTION 1. In enacting this act the Legislature recognizes that a significant change has occurred in the regulation of financial institutions under federal law, as evidenced by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, precipitated by the failure of many savings and loan associations and subsequent need to provide government assistance to remedy problems in the savings and loan industry. In reference to these events, the media has and continues to characterize savings and loan institutions as "thrifts" and as the "thrift industry." In order to promote clarity, the public's convenience and advantage, and to preserve the health and welfare of California federally insured thrift and loan companies, which have provided important deposit

opportunities and funds for consumers and business in California since 1917, the Legislature finds and declares the following:

(a) The characterization of savings and loan associations as "thrifts" and their problems as "the thrift crisis" has caused confusion in the public's mind suggesting that California thrift and loan companies are included as the same "thrifts" that are subject to the federal bail-out program.

(b) The media publicity has caused problems, severe confusion, and harmful and adverse business consequences to California licensed thrift and loan companies, including loss of deposits, significant increased money costs, and spoiled reputation and image.

(c) State jurisdictions other than California license thrift and loan companies under other names.

(d) It is in the best interest of the people of the State of California that in addition to names currently authorized under the Industrial Loan Law, the words "investment and loan" be included.

(e) The declaration of the Legislature contained in Chapter 858 of the Statutes of 1983 and subsequent legislative actions have contributed to the health and well-being of the California industrial loan companies.

SEC. 2. Section 18003.1 is added to the Financial Code, to read:

18003.1. "Investment and loan" means an industrial loan company.

SEC. 3. Section 18101.6 of the Financial Code is amended to read:

18101.6. Companies authorized to engage in the industrial loan business after the effective date of the act which added this section shall have the words "industrial loan company," "investment and loan," "thrift company" or "thrift and loan company" as part of the company name included in the articles of incorporation.

CHAPTER 624

An act to amend Section 663 of the Insurance Code, relating to insurance.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990.]

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

SECTION 1. Section 663 of the Insurance Code is amended to read:

663. At least 20 days prior to policy expiration, an insurer shall deliver to the named insured or mail to the named insured at the address shown in the policy, either of the following:

(a) A written or verbal offer of renewal of the policy contingent upon payment of premium as stated in the offer.

(b) A notice of nonrenewal of the policy. That notice shall contain

or be accompanied by a statement that upon written request by the named insured, made not later than one month following the expiration of the policy period, or delivered to the insurer, the insurer will notify the insured in writing, within 20 days of his request, the reason or reasons for such nonrenewal.

(c) In the event that an insurer fails to give the named insured either an offer of renewal or notice of nonrenewal as required by this section, the existing policy, with no change in its terms and conditions, shall remain in effect for 30 days from the date that either the offer to renew or the notice of nonrenewal is delivered or mailed to the named insured. A notice to this effect shall be provided by the insurer to the named insured with the policy or the notice of renewal or nonrenewal. Notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other replacement or succeeding automobile insurance policy procured by the insured, or his agent or broker, with respect to any automobile designated in both policies.

(d) The insurer shall not be required to notify the named insured, or any other insured, of nonrenewal of the policy if the insurer has mailed or delivered a notice of expiration or cancellation, on or prior to the 20th day preceding expiration of the policy period.

CHAPTER 625

An act to amend Sections 18954, 18958, 18959.5, 18960, and 18961, as amended by Chapter 1314 of the Statutes of 1984 of, to amend Section 18959, as amended by Chapter 106 of the Statutes of 1985 of, to repeal Sections 18954, 18958, 18959, and 18960, as amended by Chapter 598 of the Statutes of 1981 of, to repeal Section 18959.5, as amended by Chapter 1152 of the Statutes of 1979 of, and to repeal Section 18961, as amended by Chapter 1358 of the Statutes of 1982 of, the Health and Safety Code, relating to building codes.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 18954 of the Health and Safety Code, as amended by Chapter 1314 of the Statutes of 1984, is amended to read:

18954. Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of a historical building or structure may be made if they conform to this part. The building department of every city or county shall apply the provisions of alternative building standards and building regulations adopted pursuant to Section 18959.5 in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, safety, moving, or continued use of a historical

building or structure. A state agency shall apply the alternative building regulations adopted pursuant to Section 18959.5 in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, safety, moving, or continued use of a historical building or structure.

The application of any alternative standards for the provision of access to the physically handicapped or exemption from access requirements shall be done on a case-by-case and item-by-item basis, and shall not be applied to an entire building or structure without individual consideration of each item, and shall not be applied to related sites or areas except on an item-by-item basis.

SEC. 2. Section 18954 of the Health and Safety Code, as amended by Chapter 598 of the Statutes of 1981, is repealed.

SEC. 3. Section 18958 of the Health and Safety Code, as amended by Chapter 1314 of the Statutes of 1984, is amended to read:

18958. Except as provided in Section 18930, the following state agencies, in addition to the State Historical Building Safety Board, shall have the authority to adopt rules and regulations pursuant to the State Historical Building Code governing the rehabilitation, preservation, restoration, related reconstruction, safety, or relocation of qualified historical buildings and structures within their jurisdiction:

(a) The Office of the State Architect.

(b) The State Fire Marshal.

(c) The State Building Standards Commission, but only with respect to approval of building standards.

(d) The Department of Housing and Community Development.

(e) The Department of Transportation.

(f) Other state agencies that may be affected by this part.

SEC. 4. Section 18958 of the Health and Safety Code, as amended by Chapter 598 of the Statutes of 1981, is repealed.

SEC. 5. Section 18959 of the Health and Safety Code, as amended by Chapter 106 of the Statutes of 1985, is amended to read:

18959. (a) Except as otherwise provided in Part 2.5 (commencing with Section 18901), all the state agencies shall administer and enforce this part with respect to qualified historical buildings or structures under their respective jurisdiction.

(b) Except as otherwise provided in Part 2.5 (commencing with Section 18901), all local building authorities shall administer and enforce this part with respect to qualified historical buildings or structures under their respective jurisdictions where applicable.

(c) The State Historical Building Safety Board shall coordinate and consult with the other applicable state agencies affected by this part and, except as provided in Section 18943, disseminate provisions adopted pursuant to this part to all local building authorities and state agencies at cost.

(d) Regulations adopted by the State Fire Marshal pursuant to this part shall be enforced in the same manner as regulations are enforced under Sections 13145, 13146, and 13146.5.

(e) Regular and alternative building standards published in the State Building Standards Code shall be enforced in the same manner by the same governmental entities as provided by law.

(f) When administering and enforcing the provisions of this part, all local agencies may make changes or modifications in the requirements contained in the State Historical Building Code, as described in Section 18944.7, as it determines are reasonably necessary because of local climatic, geological, seismic, and topographical conditions. The local agency shall make an express finding that the modifications or changes are needed, and the finding shall be available as a public record. A copy of the finding and change or modification shall be filed with the State Historical Building Safety Board. No modification or change shall become effective or operative for any purpose until the finding and modification or change has been filed with the board.

SEC. 6. Section 18959 of the Health and Safety Code, as amended by Chapter 598 of the Statutes of 1981, is repealed.

SEC. 7. Section 18959.5 of the Health and Safety Code, as amended by Chapter 1314 of the Statutes of 1984, is amended to read:

18959.5. Subject to the applicable provisions of Part 2.5 (commencing with Section 18901) of this division, the State Historical Building Safety Board shall adopt and submit alternative building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division and may adopt, amend, and repeal other alternative rules and regulations under this part which the board has recommended for adoption under subdivision (b) of Section 18960 by the State Architect or other appropriate state agencies.

SEC. 8. Section 18959.5 of the Health and Safety Code, as amended by Chapter 1152 of the Statutes of 1979, is repealed.

SEC. 9. Section 18960 of the Health and Safety Code, as amended by Chapter 1314 of the Statutes of 1984, is amended to read:

18960. (a) A State Historical Building Safety Board is hereby established within the Office of the State Architect which shall be composed of qualified experts in their respective fields who shall represent various state and local public agencies, professional design societies and building and preservation oriented organizations.

(b) This board shall act as a consultant to the State Architect and to the other applicable state agencies. The board shall recommend to the State Architect and the other applicable state agencies rules and regulations for adoption pursuant to this part.

(c) The board shall also act as a review body to state and local agencies with respect to interpretations of this part as well as on matters of administration and enforcement of it. The board's decisions shall be reported in printed form.

(1) Notwithstanding subdivision (b) of Section 18945, if any local agency administering and enforcing this part or any person adversely affected by any regulation, rule, omission, interpretation, decision, or practice of this agency representing a building standard

wishes to appeal the issue for resolution to the State Historical Building Safety Board, these parties may appeal to the board. The board may accept the appeal only if it determines that issues involved in the appeal have statewide significance.

(2) The State Historical Building Safety Board shall, upon making a decision on an appeal pursuant to paragraph (1), send a copy to the State Building Standards Commission.

(3) Requests for interpretation by local agencies of the provisions of this part may be accepted for review by the State Historical Building Safety Board. A copy of an interpretation decision shall be sent to the State Building Standards Commission in the same manner as paragraph (2).

(4) The State Historical Building Safety Board may charge a reasonable fee, not to exceed the cost of the service, for requests for copies of their decisions and for requests for reviews by the board pursuant to paragraph (1) or (3). All funds collected pursuant to this paragraph shall be deposited in the State Historical Building Code Fund, which is hereby established, for use by the State Historical Building Safety Board. The State Historical Building Code Fund and the fees collected therefor, and the budget of the State Historical Safety Board, shall be subject to annual appropriation in the Budget Act.

(5) Local agencies may also charge reasonable fees not to exceed the cost for making an appeal pursuant to paragraph (1) to persons adversely affected as described in that appeal.

(6) All other appeals involving building standards under this part shall be made as set forth in subdivision (a) of Section 18945.

(d) The board shall be composed of representatives of state agencies and public and professional building design, construction, and preservation organizations experienced in dealing with historic buildings. Unless otherwise indicated, each named organization shall appoint its own representatives. Each of the following shall have one member on the board who shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board:

(1) Office of the State Architect.

(2) The State Fire Marshal.

(3) The State Historical Resources Commission.

(4) The California Occupational Safety and Health Standards Board.

(5) California Council, American Institute of Architects.

(6) Structural Engineers Association of California.

(7) A mechanical engineer, Consulting Engineers Association of California.

(8) An electrical engineer, Consulting Engineers Association of California.

(9) California Council of Landscape Architects.

(10) The Department of Housing and Community Development.

(11) The Department of Parks and Recreation.

(12) County Supervisors Association of California.

(13) League of California Cities.
(14) The Office of Statewide Health Planning and Development.
(15) The Department of Rehabilitation.
(16) The California Chapter of the American Institute of City Planners.
(17) The Department of Transportation.
(18) The California Preservation Foundation.
(19) The Seismic Safety Commission.
(20) The California Building Officials.

The 20 members listed above shall select a building contractor as a member of the board. The members shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board.

Each of the appointing authorities shall appoint, in the same manner as for members, an alternate in addition to a member. The alternate member shall serve in place of the member at such meetings of the board as the member is unable to attend. The alternate shall have all of the authority that the member would have when the alternate is attending in the place of the member. The board may appoint, from time to time, as it deems necessary, consultants who shall serve without pay but shall receive actual and necessary expenses as approved by the board.

(e) The term of membership on the board shall be for four years, with the State Architect's representative serving continually until replaced. Vacancies on the board shall be filled in the same manner as original appointments. The board shall annually select a chairperson from among the members of the board.

SEC. 10. Section 18960 of the Health and Safety Code, as amended by Chapter 598 of the Statutes of 1981, is repealed.

SEC. 11. Section 18961 of the Health and Safety Code, as amended by Chapter 1314 of the Statutes of 1984, is amended to read:

18961. All state agencies which enforce and administer approvals, variances, or appeals procedures or decisions affecting the preservation or safety of the historical aspects of historical buildings shall use the alternative provisions of this part and shall consult with the State Historical Building Safety Board to obtain its review prior to undertaking action or making decisions on variances or appeals which affect historical buildings.

SEC. 12. Section 18961 of the Health and Safety Code, as amended by Chapter 1358 of the Statutes of 1982, is repealed.

SEC. 13. 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Nothwithstanding Section 17580 of the Government Code unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 626

An act to amend Section 82047.5 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 82047.5 of the Government Code is amended to read:

82047.5. "Primarily formed committee" means a committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose any of the following:

(a) A single candidate.

(b) A single measure.

(c) A group of specific candidates being voted upon in the same city or county election.

(d) Two or more measures being voted upon in the same city or county election.

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 penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 3. The Legislature finds and declares that this act furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 627

An act to amend Sections 14036 and 14528.8 of the Government Code, to amend Sections 99313.6, 99314.5, and 99318 of the Public Utilities Code, to amend Sections 7351 and 8651 of the Revenue and Taxation Code, and to amend Sections 164.52, 199, 2105, and 2602 of, and to add Section 2602.1 to, the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 14036 of the Government Code is amended to read:

14036. The department shall prepare a rail passenger development plan biennially for submission to the Legislature, the Governor, the Public Utilities Commission, and the California Transportation Commission. The plan shall be submitted to the commission by April 1, 1991, and each odd-numbered year thereafter, for its advice and consent, and to the Legislature, the Governor, and the Public Utilities Commission by the following July 1. The plan shall consist of all of the following:

(a) For capital and operating subsidies, all actual encumbrances for the prior two fiscal years; and for state operations, all actual expenditures for the prior two fiscal years. All revenues shall be identified by source.

(b) For capital and operating subsidies, estimated encumbrances and revenues for the current year; and for state operations, estimated expenditures for the current year. The department shall use the same format as is required for prior year expenditures pursuant to subdivision (a).

(c) For the budget year and the four following fiscal years, proposed encumbrances for capital and operating subsidies shall be reported in the same format as is required for prior year's expenditures. For state operations, proposed expenditures for the budget year shall be reported.

(d) The identification and cost of capital facilities necessary to enhance competitiveness of rail passenger services, including, for each intercity route, a list of at least the three highest priority capital improvement projects, with cost estimates and a funding plan.

(e) A performance evaluation of all services in operation, including performance trends, potential for efficiency and effectiveness, possible improvements, and strategies to achieve that potential.

(f) A recommendation of a level of and program for services over a five-year period, including a list of service enhancements on

existing and additional routes, with funding and priority recommendations.

(g) An evaluation of reports by regional planning agencies and county transportation commissions on commuter service alternatives in their regions, including presentation of their recommendations.

(h) A map showing all existing intercity and commuter passenger rail routes and services, all proposed intercity and commuter passenger rail routes and services, and all intercity and commuter passenger rail routes and services that are the subject of feasibility studies.

This report shall be prepared in consultation with the Public Utilities Commission and the National Rail Passenger Corporation. The department may consult with other agencies, organizations, and persons with expertise. The department shall employ realistic assumptions, using Public Utilities Commission cost data whenever possible, with respect to the level of services it can provide and the cost of these services when developing the plan.

SEC. 2. Section 14528.8 of the Government Code is amended to read:

14528.8. When the department sells any real property or interest therein acquired for a state highway route location rescinded pursuant to Section 14528.7, the proceeds from the sale shall be allocated by the commission for expenditure by the department to fund the alternative state highway project proposed by the city or county, as the case may be, if it is approved by the commission. Expenditure of the proceeds for an alternative state highway project within the same county is not subject to Sections 188 and 188.8 of the Streets and Highways Code if the route location was rescinded pursuant to Section 14528.7.

SEC. 2.5. Section 99313.6 of the Public Utilities Code is amended to read:

99313.6. (a) Except as provided in subdivision (b), each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, shall create a state transit assistance fund and deposit therein the funds allocated to it pursuant to Sections 99313 and 99314 for allocations to operators, to claimants for the purposes specified in Section 99275, and to counties and cities for the purposes specified in Section 99400, within the area on which its allocation was determined.

(b) From funds allocated to it pursuant to Sections 99313 and 99314, the Los Angeles County Transportation Commission may allocate funds to itself for the planning, design, and construction of an exclusive public mass transit guideway system.

SEC. 3. Section 99314.5 of the Public Utilities Code is amended to read:

99314.5. (a) No funds allocated pursuant to Section 99313.3 or 99314.3 shall be allocated to an operator unless (1) it is eligible for

allocations under Article 4 (commencing with Section 99260), without considering any funds to be allocated to it pursuant to those sections, and (2) it is receiving the maximum allocation allowable under that article or it is in a county in which funds may be allocated for purposes specified in Section 99400.

(b) No funds allocated pursuant to Section 99313.3 shall be allocated to a city or county for purposes specified in subdivisions (b) and (c) of Section 99400 unless it is eligible for allocations under Article 8 (commencing with Section 99400) for those purposes, without considering any funds to be allocated to it pursuant to that section.

(c) The funds may be allocated to an operator for its operating cost only if the operator is not precluded, by any contract entered into on or after June 28, 1979, from employing part-time drivers or contracting with common carriers of persons operating under a franchise or license and if the operator is in compliance with Section 99268.1, 99268.2, 99268.3, 99268.4, 99268.5, or 99268.9, whichever is applicable to it. No person who was a full-time employee of an operator on June 28, 1979, shall have his or her employment terminated or his or her regular hours of employment, excluding overtime, reduced by the operator as a result of it employing part-time drivers or contracting with those common carriers.

(d) It is the intent of the Legislature that, in allocating the funds, the transportation planning agencies and the county transportation commissions, and the San Diego Metropolitan Transit Development Board, give priority consideration to claims to offset reductions in federal operating assistance and the unanticipated increase in the cost of fuel, to enhance existing public transportation services, and to meet high-priority regional, countywide, or areawide public transportation needs.

(e) No funds allocated pursuant to Section 99313.3 or 99314.3 shall be allocated to a claimant for the purposes specified in Section 99275 unless it is eligible for allocation under Article 4.5 (commencing with Section 99275) for those purposes, without considering any funds to be allocated to it pursuant to those sections.

SEC. 4. Section 99318 of the Public Utilities Code is amended to read:

99318. (a) The department and other public entities may submit applications to the department for allocations for transit capital improvement projects specified in Section 99317 from funds made available pursuant to subdivision (b) of Section 99315 or for allocations for exclusive public mass transit guideways from funds available pursuant to Sections 199 and 199.1 of the Streets and Highways Code.

(b) The department shall evaluate the applications in accordance with criteria and procedures adopted by the commission and shall submit the applications and its recommendations thereon to the commission not later than February 1.

(c) The commission shall adopt criteria and procedures to be

followed by the department in evaluating the applications.

(d) An application shall be considered timely if submitted by January 1 for a guideway project in a county that became eligible for those funds at an election held pursuant to Section 4 of Article XIX of the California Constitution during or prior to the immediately preceding November.

SEC. 4.5. Section 7351 of the Revenue and Taxation Code is amended to read:

7351. (a) For the privilege of distributing motor vehicle fuel, a license tax is hereby imposed upon distributors for each gallon of fuel distributed at the following rate per gallon:

(1) Fourteen cents ($0.14) during 1990, on and after August 1.

(2) Fifteen cents ($0.15) during 1991.

(3) Sixteen cents ($0.16) during 1992.

(4) Seventeen cents ($0.17) during 1993.

(5) Eighteen cents ($0.18) on and after January 1, 1994.

(b) If the federal fuel tax is reduced below the rate of nine cents ($0.09) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by this section, on and after the date of the reduction, shall be increased by an amount so that the combined state and federal tax rate per gallon equals the following:

(1) Twenty-three cents ($0.23) during 1990, on and after August 1.

(2) Twenty-four cents ($0.24) during 1991.

(3) Twenty-five cents ($0.25) during 1992.

(4) Twenty-six cents ($0.26) during 1993.

(5) Twenty-seven cents ($0.27) on and after January 1, 1994.

(c) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be so exempt under this section.

SEC. 5. Section 8651 of the Revenue and Taxation Code is amended to read:

8651. (a) An excise tax is hereby imposed for the use of fuel at the following rate per gallon:

(1) Fourteen cents ($0.14) during 1990, on and after August 1.

(2) Fifteen cents ($0.15) during 1991.

(3) Sixteen cents ($0.16) during 1992.

(4) Seventeen cents ($0.17) during 1993.

(5) Eighteen cents ($0.18) on and after January 1, 1994.

(b) If the federal fuel tax is reduced below the rate of fifteen cents ($0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by this section, on and after the date of the reduction, shall be increased by an amount so that the combined state and federal tax rate per gallon equals the following:

(1) Twenty-nine cents ($0.29) during 1990, on and after August 1.

(2) Thirty cents ($0.30) during 1991.
(3) Thirty-one cents ($0.31) during 1992.
(4) Thirty-two cents ($0.32) during 1993.
(5) Thirty-three cents ($0.33) on and after January 1, 1994.

(c) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.

SEC. 6. Section 164.52 of the Streets and Highways Code is amended to read:

164.52. The urban rail transit projects eligible for funding pursuant to subdivision (f) of Section 164.50 include all of the following:

(a) Sacramento:
(1) Roseville extension.
(2) Hazel extension.
(3) Meadowview extension.
(4) Arena extension.
(b) San Francisco Bay Area Rapid Transit District:
(1) Bayfair-East Livermore.
(2) Concord-East Antioch.
(3) Fremont-Warm Springs.
(4) Daly City-San Francisco International Airport.
(5) Coliseum-Oakland International Airport.
(6) Richmond-Crockett.
(7) Warm Springs-San Jose.
(c) Alameda and Contra Costa Counties:
(1) Pleasanton-Concord.
(d) Santa Clara County:
(1) Sunnyvale-Santa Clara.
(2) San Jose-Vasona.
(3) Route 237.
(e) San Francisco City and County:
(1) Extensions, improvements, and additions to the San Francisco Municipal Railway.
(f) Santa Cruz County:
(1) Boardwalk area-University of California at Santa Cruz.
(g) Los Angeles-Metro Rail:
(1) Wilshire/Alvarado-Wilshire/Western.
(2) Wilshire/Alvarado-Lankershim/Chandler.
(3) Union Station-Routes 5 and 710.
(4) Wilshire/Western/Wilshire Highway Route 405.
(h) Los Angeles County Rail corridors:
(1) Lankershim/Chandler-Warner Center.
(2) Pasadena-Los Angeles.
(3) Coastal Corridor (Torrance to Santa Monica).
(4) Santa Monica-Los Angeles.
(5) Route 5.
(6) Route 110.
(i) San Diego County:

(1) El Cajon-Santee.
(2) Downtown-Old Town.
(3) Airport-Point Loma.
(4) Old Town-Mission Valley.
(5) Mission Valley-La Mesa.
(6) La Jolla-Miramar.
(7) Old Town-Del Mar.
(8) Downtown-Escondido.
(9) Chula Vista-Otay Mesa.

SEC. 7. Section 199 of the Streets and Highways Code is amended to read:

199. (a) Upon the approval of a proposition by the voters of an area pursuant to Section 4 of Article XIX of the California Constitution, the entity, including, but not limited to, a transit district, responsible for construction of an exclusive public mass transit guideway project in that area may submit the project to the department for inclusion in its resource allocation recommendations. If the project is located within an area under the jurisdiction of a statutorily created transportation planning agency, a county transportation commission, or the San Diego Metropolitan Transit Development Board, the project shall be approved by that agency, commission, or board, as the case may be, prior to being submitted to the department.

(b) Projects eligible for funding as exclusive public mass transit guideway projects include projects on rail lines on which publicly funded rail passenger service is provided or is proposed to be provided, if the voters have approved a proposition pursuant to Section 4 of Article XIX of the California Constitution for the area in which the project is to be located. The department, or a local entity, including, but not limited to, a transit district, may submit the project to the department for inclusion in its resource allocation recommendations. If the project is located within an area under the jurisdiction of a statutorily created transportation planning agency, a county transportation commission, or the San Diego Metropolitan Transit Development Board, the project shall be approved by that agency, commission, or board, as the case may be, prior to being submitted to the department.

(c) The department shall submit its resource allocation recommendations for that project for the comment and review of the transportation planning agency designated in Section 29532 of the Government Code for the area, except that, in the case of a project located within an area under the jurisdiction of a statutorily created transportation planning agency, a county transportation commission, or the San Diego Metropolitan Transit Development Board, the project shall be approved by that agency, commission, or board, as the case may be. Each project shall be submitted by the department to the California Transportation Commission for the allocation of funds to the project from those funds appropriated for guideway purposes from the State Highway Account. Allocations shall be made

under terms and conditions that the commission deems appropriate, taking into consideration any recommendation of the department and any agency, commission, or board.

(d) The funds set aside pursuant to this section from the State Highway Account are expenditures on the state highway system for purposes of Sections 188 and 188.8 and shall be separately identified in the budget report submitted to the Legislature. However, the commission shall make multiyear commitments for programming guideway projects over the seven-year period of the state transportation improvement program if the projects require funding in more than one year.

(e) If the department and the commission determine that funding is not available from the Transportation Planning and Development Account in the State Transportation Fund for all eligible transit capital improvements, projects eligible for funding pursuant to Section 4 of Article XIX of the California Constitution shall be so funded.

SEC. 8. Section 2105 of the Streets and Highways Code is amended to read:

2105. In addition to the apportionments prescribed by Sections 2104, 2106, and 2107, from the revenues derived from a per gallon tax imposed pursuant to Section 7351 of the Revenue and Taxation Code, and a per gallon tax imposed pursuant to Section 8651 of that code, the following apportionments shall be made:

(a) A sum equal to the net revenue from a tax of 11.5 percent of any per gallon tax in excess of nine cents ($0.09) per gallon under Section 7351 of the Revenue and Taxation Code, and 11.5 percent of any per gallon tax in excess of nine cents ($0.09) per gallon under Section 8651 of that code, shall be apportioned among the counties, including a city and county.

The amount of apportionment to each county, including a city and county, during a fiscal year shall be calculated as follows:

(1) One million dollars ($1,000,000) for apportionment to all counties, including a city and county, in proportion to each county's receipts during the prior fiscal year under Sections 2104 and 2106.

(2) One million dollars ($1,000,000) for apportionment to all counties, including a city and county, as follows:

(A) Seventy-five percent in the proportion that the number of fee-paid and exempt vehicles which are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent in the proportion that the number of miles of maintained county roads in the county bears to the miles of maintained county roads in the state.

(3) For each county, determine its factor which is the higher amount calculated pursuant to paragraph (1) or (2) divided by the sum of the higher amounts for all of the counties.

(4) The amount to be apportioned to each county is equal to its factor multiplied by the amount available for apportionment.

(b) A sum equal to the net revenue from a tax of 11.5 percent of any per gallon tax in excess of nine cents ($0.09) per gallon under Section 7351 of the Revenue and Taxation Code, and 11.5 percent of any per gallon tax in excess of nine cents ($0.09) per gallon under Secton 8651 of that code, shall be apportioned to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

(c) In order to receive any allocation pursuant to this section, the city or county, as the case may be, shall annually expend from its general fund for street and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1987–88, 1988–89, and 1989–90 fiscal years, as reported to the Controller pursuant to Section 2151. For purposes of this subdivision, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 1987–88, 1988–89, and 1989–90 fiscal years, any unrestricted funds which the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes are expenditures from the general fund.

(d) The Controller may request fiscal data from cities and counties, in addition to data provided pursuant to Section 2151, for the 1987–88, 1988–89, and 1989–90 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to cities and counties that do not comply with the request for information or provide incomplete data.

(e) At the conclusion of each fiscal year during which a city or county receives funds under this section, the Controller shall verify the city's or county's compliance with subdivision (c). Any city or county which has not complied with this requirement shall reimburse the state for the funds it received during that fiscal year. The Controller shall withhold payments pursuant to Section 2104, 2105, 2106, and 2107 to any city or county which has not complied with subdivision (c) until the state is reimbursed for the subventions under this section during the fiscal year when the city or county did not comply.

(f) For any city incorporated after July 1, 1987, the Controller shall calculate the annual average of expenditures pursuant to subdivision (c) for the period between July 1, 1987, and June 30, 1990, that the city was incorporated.

(g) Any funds that are returned to the state as a result of noncompliance with subdivision (c) shall be added to the base and redistributed among cities and counties for the fiscal year during which it is returned.

(h) If the amount of revenues received by a city or county from fines and forfeitures during a fiscal year is less than the average amount of revenues from fines and expended during the 1987–88, 1988–89, and 1989–90 fiscal years for street and highway purposes, the

city's or county's expenditure requirements pursuant to subdivision (c) is reduced by the difference between those revenues received during that fiscal year and the average amount of the city's or county's expenditures during those three fiscal years.

SEC. 9. Section 2602 of the Streets and Highways Code is amended to read:

2602. The state-local transportation partnership program shall be implemented by the department and the applicants under the following procedures:

(a) Applicants shall submit applications for eligible projects to the department not later than June 30.

(b) The department shall review the applications for consistency with the requirements of this chapter and shall compile a preliminary list of all eligible projects not later than September 30 of the year in which the application was submitted.

(c) (1) If the total state share for eligible projects exceeds the amount specified in the Governor's proposed budget, the department shall compute the preliminary pro rata share of state funds to be available so that each eligible project would receive the same ratio of state share to local share. Not later than April 1 of the following year, the department shall advise the applicants of the preliminary pro rata share of state funds to be available.

(2) Not later than June 15 of the following year, each applicant shall inform the department whether or not it can proceed with the project with the lower state share and meet the project development completion requirements specified in paragraph (4) of subdivision (b) of Section 2601.

(3) Upon the enactment of the annual Budget Act, the department shall compile a new list of eligible projects consisting of those projects that were included in the original list that the applicant has indicated it can proceed with a lower state share and for which the applicant has indicated it can still meet the delivery requirements pursuant to paragraph (4) of subdivision (b) of Section 2601.

(4) Based on the amount of the appropriation contained in the annual Budget Act, the department shall compute the final pro rata state share so that each project on the new list would receive the same ratio of state share to local share.

(5) Within 30 days of the enactment of the annual Budget Act, the department shall report to the Legislature on the projects being funded through this program and the ratio of state share to local share.

(d) The Legislature intends to appropriate two hundred fifty million dollars ($250,000,000) by June 30, 1990, two hundred fifty million dollars ($250,000,000) by June 30, 1991, and two hundred million dollars ($200,000,000) by June 30 of each year thereafter for this program.

(e) Construction contracts for projects on the eligibility list established pursuant to subdivision (b) or (c) shall be let not later

than June 30 of the year following the year in which funds are appropriated pursuant to subdivision (d).

(f) The funds appropriated shall be spent not later than June 30 of the third year following the appropriation.

SEC. 10. Section 2602.1 is added to the Streets and Highways Code, to read:

2602.1. Notwithstanding Section 2602, for the 1990-91 fiscal year only, funding for the state-local transportation partnership program shall be implemented as follows:

(a) Any project which was included in the list of eligible projects compiled by the department as of April 1, 1990, may be withdrawn by the applicant for funding during the 1990-91 fiscal year and resubmitted not later than July 31, 1990, for funding in the 1991-92 fiscal year.

(b) The department shall recompute the pro rata share of state funding for projects that remain on the list on August 1, 1990, based upon the amount appropriated for the program for the 1990-91 fiscal year, so that each eligible project will receive the same ratio of state share to local share.

(c) Not later than September 1, 1990, the department shall notify the Legislature of the ratio of state share to local share computed pursuant to subdivision (b).

(d) With respect to any project which was withdrawn and resubmitted by July 31, 1990, pursuant to subdivision (a), the department shall, as nearly as possible, administer and implement the program for the 1990-91 fiscal year in accordance with the procedure prescribed by this section, as if this section had been in effect on that date.

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 state-local transportation partnership program may be implemented as quickly as possible, in accordance with the Budget Act of 1990, to fund needed transportation projects, and to eliminate unnecessary restrictions on needed alternative state highway projects, it is necessary that this act take effect immediately.

CHAPTER 628

An act to amend Section 15438.5 of the Government Code, relating to health facility financing.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990.]

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

SECTION 1. 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.

(g) If a health facility seeking financing for a project pursuant to this part does not meet the guidelines established by the authority with respect to bond rating, the authority may nonetheless give special consideration, on a case-by-case basis, to financing the project if the health facility demonstrates to the satisfaction of the authority the financial feasibility of the project, and the performance of significant community service. For the purposes of this part, a health facility which performs a significant community service is one that contracts with Medi-Cal or that can demonstrate, with the burden of proof being on the health facility, that it has fulfilled at least two of the following criteria:

(1) On or before January 1, 1991, has established, and agrees to maintain, a 24-hour basic emergency medical service open to the public with a physician and surgeon on duty, or is a children's hospital as defined in Section 14087.21 of the Welfare and Institutions Code, which jointly provides basic or comprehensive emergency services in conjunction with another licensed hospital. This criterion shall not be utilized in a circumstance where a small and rural hospital, as defined in Section 442.2 of the Health and Safety Code, has not established a 24-hour basic emergency medical service with a physician and surgeon on duty; or will operate a designated trauma center on a continuing basis during the life of the revenue bonds issued by the authority.

(2) Has adopted, and agrees to maintain on a continuing basis during the life of the revenue bonds issued by the authority, a policy, approved and recorded by the facility's board of directors, of treating all patients without regard to ability to pay, including, but not limited to, emergency room walk-in patients.

(3) Has provided and agrees to provide care, on a continuing basis during the life of the revenue bonds issued by the authority, to Medi-Cal and uninsured patients in an amount not less than 5

percent of the facility's adjusted inpatient days as reported on an annual basis to the Office of Statewide Health Planning and Development.

(4) Has budgeted at least 5 percent of its net operating income to meeting the medical needs of uninsured patients and to providing other services, including, but not limited to, community education, primary care outreach in ambulatory settings, and unmet nonmedical needs, such as food, shelter, clothing, or transportation for vulnerable populations in the community, and agrees to continue that policy during the life of the revenue bonds issued by the authority.

On or before January 1, 1992, the authority shall report to the Legislature regarding the implementation of this subdivision. The report shall provide information on the number of applications for financing sought under this subdivision, the number of applications approved and denied under this subdivision, and a brief summary of the reason for any denial of an application submitted under this subdivision.

(h) Enforcement of the conditions under which the authority issues bonds pursuant to this section shall be governed by the enforcement conditions under Section 15459.4.

CHAPTER 629

An act relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

SECTION 1. The City of Pinole is hereby authorized to convert for use as a fire station a portion of the Sobrante Ridge Park, known as Pinole Valley Park, Department of Parks and Recreation Project #070014, which received state funding pursuant to Item 412A (32) of the Budget Act of 1976, (#76-07016), Item 443.8(49) of the Budget Act of 1977, (#BG-07-210), Item 277 of the Budget Act of 1977, and Item 222 of the Budget Act of 1978, if the City of Pinole mitigates the loss of the existing parkland by acquiring land equal to or greater than the fair market value of the lost parkland and dedicating the new land to park purposes.

The Department of Parks and Recreation shall approve the plan for mitigation adopted by the City of Pinole prior to the conversion.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide urgently needed fire protection facilities within the City of Pinole at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 630

An act to amend Section 261 of the Penal Code, relating to crime.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

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

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

(1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(2) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused.

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

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

(6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a

reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, "duress" means a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, "menace" means any threat, declaration, or act which shows an intention to inflict an injury upon another.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 631

An act to add Section 602.6 to the Penal Code, relating to trespass.

[Approved by Governor September 7, 1990 Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 602.6 is added to the Penal Code, to read:

602.6. Every person who enters or remains in, or upon, any state, county, district, or citrus fruit fair buildings or grounds, when the buildings or grounds are not open to the general public, after having been ordered or directed by a peace officer or a fair manager to leave the building or grounds and when the order or direction to leave is issued after determination that the person has no apparent lawful business or other legitimate reason for remaining on the property, and fails to identify himself or herself and account for his or her presence, is guilty of a misdemeanor.

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

only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 632

An act to amend Sections 987.2, 1017, 1018, 1035, and 4852.2 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 7, 1990. Filed with Secretary of State September 10, 1990]

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

SECTION 1. Section 987.2 of the Penal Code is amended to read:

987.2. (a) In any case in which a person, including a person who is a minor, desires but is unable to employ counsel, and in which counsel is assigned in the superior court, municipal court, or justice court to represent the person in a criminal trial, proceeding or appeal, the following assigned counsel shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court, to be paid out of the general fund of the county:

(1) In a county or city and county in which there is no public defender.

(2) In a county of the first or second class where there is no contract for criminal defense services between the county and one or more responsible attorneys.

(3) In a case in which the court finds that, because of a conflict of interest or other reasons, the public defender has properly refused.

(4) In a county of the first or second class where attorneys contracted by the county are unable to represent the person accused.

(b) The sum provided for in subdivision (a) may be determined by contract between the court and one or more responsible attorneys after consultation with the board of supervisors as to the total amount of compensation and expenses to be paid, which shall be within the amount of funds allocated by the board of supervisors for the cost of assigned counsel in those cases.

(c) In counties that utilize an assigned private counsel system as either the primary method of public defense or as the method of appointing counsel in cases where the public defender is unavailable, the county, the courts, or the local county bar association working with the courts are encouraged to do all of the following:

(1) Establish panels that shall be open to members of the State Bar of California.

(2) Categorize attorneys for panel placement on the basis of experience.

(3) Refer cases to panel members on a rotational basis within the level of experience of each panel, except that a judge may exclude an individual attorney from appointment to an individual case for good cause.

(4) Seek to educate those panel members through an approved training program.

(5) Establish a cost-efficient plan to insure maximum recovery of costs pursuant to Section 987.8.

(d) In a county of the first or second class, the court shall first utilize the services of the public defender to provide criminal defense services for indigent defendants. In the event that the public defender is unavailable and the county and the courts have contracted with one or more responsible attorneys or with a panel of attorneys to provide criminal defense services for indigent defendants, the court shall utilize the services of the county-contracted attorneys prior to assigning any other private counsel. Nothing in this subdivision shall be construed to require the appointment of counsel in any case in which the counsel has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of a county-contracted attorney after making a finding of good cause and stating the reasons therefor on the record.

(e) Notwithstanding any other provision of this section, where an indigent defendant is first charged in one county and establishes an attorney-client relationship with the public defender, defense services contract attorney, or private attorney, and where the defendant is then charged with an offense in a second or subsequent county, the court in the second or subsequent county may appoint the same counsel as was appointed in the first county to represent the defendant when all of the following conditions are met:

(1) The offense charged in the second or subsequent county would be joinable for trial with that charged in the first if it took place in the same county, or involves evidence which would be cross-admissible.

(2) The court finds that the interests of justice and economy will be best served by unitary representation.

(3) Counsel appointed in the first county consents to the appointment.

(f) The county may recover costs of public defender services under Chapter 6 (commencing with Section 4750) of Title 5 of Part 3 for any case subject to Section 4750.

(g) Counsel shall be appointed to represent, in the municipal or justice court, a person who desires but is unable to employ counsel, when it appears that the appointment is necessary to provide an adequate and effective defense for the defendant.

(h) As used in this section, "county of the first or second class" means the county of the first class and county of the second class as provided by Sections 28020, 28022, and 28023 of the Government Code.

SEC. 2. Section 1017 of the Penal Code is amended to read:

1017. Every plea must be made in open court and, may be oral or in writing, shall be entered upon the minutes of the court, and shall be taken down in shorthand by the official reporter if one is present. All pleas of guilty or nolo contendere to misdemeanors or felonies shall be oral or in writing. The plea, whether oral or in writing, shall be in substantially the following form:

1. If the defendant plead guilty: "The defendant pleads that he or she is guilty of the offense charged."

2. If he or she plead not guilty: "The defendant pleads that he or she is not guilty of the offense charged."

3. If he or she plead a former conviction or acquittal: "The defendant pleads that he or she has already been convicted (or acquitted) of the offense charged, by the judgment of the court of _____ (naming it), rendered at _____ (naming the place), on the _____ day of _____."

4. If he or she plead once in jeopardy: "The defendant pleads that he or she has been once in jeopardy for the offense charged (specifying the time, place, and court)."

5. If he or she plead not guilty by reason of insanity: "The defendant pleads that he or she is not guilty of the offense charged because he or she was insane at the time that he or she is alleged to have committed the unlawful act."

SEC. 3. Section 1018 of the Penal Code is amended to read:

1018. Unless otherwise provided by law every plea must be entered or withdrawn by the defendant himself in open court. No plea of guilty of a felony for which the maximum punishment is death, or life imprisonment without the possibility of parole, shall be received from a defendant who does not appear with counsel, nor shall any such plea be received without the consent of the defendant's counsel. No plea of guilty of a felony for which the maximum punishment is not death or life imprisonment without the possibility of parole shall be accepted from any defendant who does not appear with counsel unless the court shall first fully inform him or her of the right to counsel and unless the court shall find that the defendant understands the right to counsel and freely waives it and then, only if the defendant has expressly stated in open court, to the court, that he or she does not wish to be represented by counsel. On application of the defendant at any time before judgment the court may, and in case of a defendant who appeared without counsel at the time of the plea the court must, for a good cause shown, permit the plea of guilty to be withdrawn and a plea of not guilty substituted. Upon indictment or information against a corporation a plea of guilty may be put in by counsel. This section shall be liberally construed to effect these objects and to promote justice.

SEC. 4. Section 1035 of the Penal Code is amended to read:

1035. (a) In a criminal action pending in a municipal or justice court, the court shall order a change of venue to another judicial district in the same county on motion of the prosecution if it appears that the change will be for the convenience of all parties to the action and the defendant and his attorney, if any, consent in writing to the change.

(b) A defendant arrested, held, or present in a county other than that in which an indictment, information, felony complaint, or felony probation violation is pending against the defendant, may state in writing his or her agreement to plead guilty or nolo contendere to some or all of the pending charges, to waive trial or hearing in the county in which the pleading is pending, and to consent to disposition of the case in the county in which that defendant was arrested, held, or present, subject to the approval of the district attorney for each county. Upon receipt of the defendant's statement and of the written approval of the district attorneys, the clerk of the court in which the pleading is pending shall transmit the papers in the proceeding or certified copies thereof to the clerk of the court for the county in which the defendant is arrested, held, or present, and the prosecution shall continue in that county. However, the proceedings shall be limited solely to the purposes of plea and sentencing and not for trial. If, after the proceeding has been transferred pursuant to this section, the defendant pleads not guilty, the clerk shall return the papers to the court in which the prosecution was commenced and the proceeding shall be restored to the docket of that court. The defendant's statement that the defendant wishes to plead guilty or nolo contendere shall not be used against the defendant.

SEC. 5. Section 4852.2 of the Penal Code is amended to read:

4852.2. Every person, other than an individual who is licensed to practice law in the State of California, pursuant to Article 4 (commencing with Section 6060) of Chapter 4 of Division 3 of the Business and Professions Code and who is acting in that capacity, who solicits or accepts any fee, money, or anything of value for his or her services, or his or her purported services, in representing a petitioner in any proceeding under this chapter, or in any application to the Governor for a pardon under this chapter, is guilty of a misdemeanor.

CHAPTER 633

An act to amend Section 17705.5 of the Education Code, and to amend Sections 53080.1 and 65995.1 of the Government Code, relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1990. Filed with Secretary of State September 11, 1990]

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 construction 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 construction or reconstruction of one or more school facilities shall provide, as its share of the cost of the project, an amount equal to the product of the applicable maximum fee authorized under 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, 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. Notwithstanding any other provision of this paragraph, as to any construction for which the payment of a fee, charge, or dedication is required under a contract as described in paragraph (1) of subdivision (c) of Section 65995 of the Government Code, the matching share required under this subdivision shall be deemed to be the maximum payment that may be required under that contract as a condition of the approval of that construction. The amount calculated in this subdivision is reduced by the sum of the following:

(1) 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 projection. Notwithstanding that limit, the board may authorize the acquisition of additional interim classroom facilities for the purposes of this paragraph to the extent it determines that acquisition to be necessary to alleviate severe classroom overcrowding. Enrollment projections for this purpose shall be made in accordance with this chapter.

(2) 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.

(3) 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.

(4) An amount reflecting the reasonable administrative expenses incurred by the school district in calculating and collecting the fees or other requirements levied by the school district during that period. If the school district has entered into an agreement pursuant to subdivision (a) of Section 53080 of the Government Code whereby the fees or other requirements imposed are collected in whole or in part by a city or county, the amount of administrative expenses calculated under this paragraph shall include any amount paid by the school district to the city or county as reimbursement for that service. In no event shall the total amount of the administrative expenses calculated under this paragraph exceed 3 percent of the fees collected during that period.

(c) Where part or all of the local matching share is funded from the proceeds of a special tax or other charge, rather than from the imposition of a school facilities fee or other requirement, the applicant district shall not be required to pay that amount of the local matching share until those proceeds become available to the district.

(d) 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.

(e) 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.

(f) 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.

(g) The board may make the loan specified in subdivision (f) from any funds available from any source, including, but not limited to, those amounts made available pursuant to Section 16065.

(h) 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.

(i) The board is authorized to accept from applicant school districts, as a method of compliance with all or part of the local matching share requirement calculated under this section, land that will be part of the project for which the matching share is to be paid, in which event title to the land shall be conveyed to the state. The board shall determine the value of the land to be used for this purpose, and shall adopt rules and regulations as necessary to otherwise implement this subdivision.

(j) 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 53080.1 of the Government Code is amended to read:

53080.1. (a) Any resolution adopting or increasing a fee, charge, dedication, or other requirement pursuant to Section 53080, for application to residential, commercial, or industrial development, shall be enacted in accordance with Chapter 5 (commencing with Section 66000) of Division 1 of Title 7, with Section 54994.1, and with the procedures for mailed notice set forth in Section 54992. The adoption, increase, or imposition of any fee, charge, dedication, or other requirement pursuant to Section 53080 shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code. The adoption of, or increase in, the fee, charge, dedication, or other requirement shall be effective no sooner than 60 days following the final action on that adoption or increase, except as specified in subdivision (b).

(b) Without following the procedure otherwise required for adopting or increasing a fee, charge, dedication, or other requirement, the governing board of a school district may adopt an urgency measure as an interim authorization for a fee, charge, dedication, or other requirement, or increase in a fee, charge, dedication, or other requirement, where necessary to respond to a current and immediate threat to the public health, welfare, or safety. The interim authorization shall require a four-fifths vote of the governing board for adoption, and shall contain findings describing the current and immediate threat to the public health, welfare, or

safety. The interim authorization shall have no force or effect on and after a date 30 days after its adoption. After notice and hearing in accordance with subdivision (a), the governing board, upon a four-fifths vote of the board, may extend the interim authority for an additional 30 days. Not more than two extensions may be granted.

(c) Upon adopting or increasing a fee, charge, dedication, or other requirement pursuant to subdivision (a) or (b), the school district shall transmit a copy of the resolution to each city and each county in which the district is situated, accompanied by all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, charge, dedication, or other requirement. The school district governing board shall specify, pursuant to that notification, whether or not the collection of the fee or other charge is subject to the restriction set forth in subdivision (a) of Section 66007.

(d) Any party on whom a fee, charge, dedication, or other requirement has been directly imposed pursuant to Section 53080 may protest the establishment or imposition of that fee, charge, dedication, or other requirement in accordance with Section 66009, except that the procedures set forth in Section 66008 are deemed to apply, for this purpose, to commercial and industrial development, as well as to residential development.

(e) In the case of any commercial or industrial development, the following procedures shall also apply:

(1) The school district governing board shall, in the course of making the findings required under subdivisions (a) and (b) of Section 66001, do all of the following:

(A) Make the findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse.

(B) Conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development upon the cost of providing school facilities within the district. For the purpose of making that determination, the study shall utilize employee generation estimates that are calculated on either an individual project or categorical basis, in accordance with subparagraph (A). Those employee generation estimates shall be based upon commercial and industrial factors within the district or upon, in whole or in part, the applicable employee generation estimates set forth in the January 1990 edition of "San Diego Traffic Generators," a report of the San Diego Association of Governments.

(C) The governing board shall take into account the results of that study in making the findings described in this subdivision.

(2) In addition to any other requirement imposed by law, in the case of any development project against which a fee, charge,

dedication, or other requirement is to be imposed pursuant to Section 53080 on the basis of a category of commercial or industrial development, as described in paragraph (1), the governing board shall provide a process that permits the party against whom the fee, charge, dedication, or other requirement is to be imposed the opportunity for a hearing to appeal that imposition. The grounds for that appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the fee, charge, dedication, or other requirement is to be imposed, or that the employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project. The party appealing the imposition of the fee, charge, dedication, or other requirement shall bear the burden of establishing that the fee, charge, dedication, or other requirement is improper.

SEC. 3. Section 65995.1 of the Government Code is amended to read:

65995.1. (a) Notwithstanding any other provision of law, as to any development project for the construction of senior citizen housing, as described in Section 51.3 of the Civil Code, a residential care facility for the elderly as described in subdivision (k) of Section 1569.2 of the Health and Safety Code, or a multilevel facility for the elderly as described in paragraph (9) of subdivision (d) of Section 15432, any fee, charge, dedication, or other form of requirement that is levied under Section 53080 may be applied only to new construction, and is subject to the limits and conditions applicable under subdivision (b) of Section 65995 in the case of commercial or industrial development.

(b) Any development project against which school facilities fees or other requirements have been levied in accordance with the limit set forth in subdivision (a) may be converted to any use other than those uses described in the statutes cited in that subdivision only with the approval of the city or county that issued the building permit for the project. That approval shall not be granted absent certification by the appropriate school district that payment has been made on the part of the development project at the rate of the school facilities fee, charge, dedication, or other form of requirement applied by the district under Section 53080 to residential development as of the date of conversion, less the amount of any school facilities fees or other requirements paid on the part of the project in accordance with the limits set forth in subdivision (a).

SEC. 4. Section 1 of this act shall not become operative if Assembly Bill 3185, Senate Bill 79, or Senate Bill 2780 of the 1989–90 Regular Session (1) is enacted and becomes effective on or before January 1, 1991, but prior to the effective date of this bill, and (2) amends Section 17705.5 of the Education Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of theConstitution and shall go into immediate effect. The facts constituting the necessity are:

In order to mitigate the expense being incurred by school districts in order to comply with existing provisions of law requiring that designated findings be made prior to the imposition of certain school facilities fees or other requirements, it is necessary that this act take effect immediately.

CHAPTER 634

An act relating to law enforcement.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

SECTION 1. The Legislature finds and declares that:

(a) A majority of Californians believe that crime, particularly violent crime, is at unacceptably high levels and that there are less law enforcement personnel on the streets.

(b) A greater number of visible law enforcement personnel deters crime and enhances the security of all citizens.

(c) For lack of funds and competing demands, many city and county law enforcement agencies are turning away qualified police officer applicants, reducing forces, delaying responses, and failing to expand services to meet rising demand.

(d) The addition of more entry-level officers would release seasoned career officers for complex investigations and command responsibilities.

(e) Many departments need more minorities and women to bring their agency's makeup into conformity with the populations they serve.

(f) Many departments would like an alternative to using career officers for routine police functions if they could be assured of good quality and high standards in their replacements.

(g) Many young people who are interested in public service careers, including law enforcement, are in need of financial assistance to attend college.

(h) There is widespread interest in the concept of a police corps scholarship program and several proposals are presently before the United States Congress for the purpose of establishing such a program.

(i) The Legislature hereby expresses its interest in a police corps scholarship program and desires to receive and review a report on the feasibility of implementing a police corps scholarship program in California and alternatives for increasing law enforcement staffing levels.

SEC. 2. The Office of Criminal Justice Planning, after conferring with representatives of the Attorney General's office, police and

sheriffs' organizations throughout the state, institutions of higher education which specialize in the area of criminology, the California Community Colleges, the University of California, the California State University, and the California Student Aid Commission, shall do all of the following:

(a) Study the police corps scholarship concept described in Section 1 of this act and determine what steps need to be taken to receive federal funding which may be available for a police corps scholarship program and other programs which may serve as alternatives for increasing law enforcement staffing levels.

(b) The office shall report its findings to the Governor and to the Legislature by January, 1, 1992.

CHAPTER 635

An act to add Section 21375 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 8, 1990. Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 21375 is added to the Vehicle Code, to read:

21375. (a) The Department of Transportation shall place and maintain, or cause to be placed and maintained, directional signs on freeways indicating the location of the freeway off ramp which may be used to reach a public or private postsecondary education institution having an enrollment of either 1,000 or more full-time students or the equivalent in part-time students, at the request of the institution. No signs shall be erected pursuant to this subdivision until the department has received donations from private sources covering the costs of erecting the signs.

(b) The Department of Transportation shall place and maintain, or cause to be placed and maintained, freeway directional signs for any institution described in subdivision (a) for which freeway directional signs had previously been erected and which has, on or after January 1, 1980, moved to another location, if that move was done to contribute to the improvement of the institution, as determined by the department. Freeway directional signs erected pursuant to this subdivision shall be at no cost to the institution.

(c) Subdivision (a) applies to a public or private postsecondary institution which is located within two miles of the freeway in a major metropolitan area, within four miles of the freeway in an urban area, or within five miles of the freeway in a rural area. Subdivision (b) applies to a public or private postsecondary education institution which has moved to a location which is within the distances specified in this subdivision.

CHAPTER 636

An act to amend Section 269 of the Code of Civil Procedure, relating to criminal procedure.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 269 of the Code of Civil Procedure is amended to read:

269. (a) The official reporter of a superior court, or any of them, where there are two or more, shall, at the request of either party, or of the court in a civil action or proceeding, and on the order of the court, the district attorney, or the attorney for the defendant in a criminal action or proceeding, take down in shorthand all testimony, objections made, rulings of the court, exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, arguments of the prosecuting attorney to the jury, and all statements and remarks made and oral instructions given by the judge. If directed by the court, or requested by either party, the official reporter shall, within such reasonable time after the trial of the case as the court may designate, write the transcripts out, or the specific portions thereof as may be requested, in plain and legible longhand, or by typewriter, or other printing machine, and certify that the transcripts were correctly reported and transcribed, and when directed by the court, file the transcripts with the clerk of the court.

(b) In any case where a defendant is convicted of a felony, after a trial on the merits, the record on appeal shall be prepared immediately after the verdict or finding of guilt is announced unless the court determines that it is likely that no appeal from the decision will be made. The court's determination of a likelihood of appeal shall be based upon standards and rules adopted by the Judicial Council.

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 an option county, as defined in Section 77004 of the Government Code, because an option county has waived all claims for reimbursement for state-mandated local programs for court operations and will receive block grant funding under the Brown-Presley Trial Court Funding Act (Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code), in lieu of the requirements under Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement for those costs to counties which are not option counties, as defined in Section 77004

of the Government Code, 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 637

An act to add Section 1725 to the Civil Code, relating to negotiable instruments.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 1725 is added to the Civil Code, to read:

1725. (a) No person accepting a negotiable instrument as payment in full or in part for goods or services shall do any of the following:

(1) Require the person paying with a negotiable instrument to provide a credit card as a condition of acceptance of the negotiable instrument, as a means of identification, or for any other purpose.

(2) Require, as a condition of acceptance of the negotiable instrument, or cause the person paying with a negotiable instrument to sign a statement agreeing to allow his or her credit card to be charged to cover the negotiable instrument if returned as no good.

(3) Record a credit card number in connection with any part of the transaction described in this subdivision.

(4) Contact a credit card issuer to determine if the amount of any credit available to the person paying with a negotiable instrument will cover the amount of the negotiable instrument.

(b) Any person who violates this section is subject to a civil penalty not to exceed two hundred fifty dollars ($250) for a first violation, and to a civil penalty not to exceed one thousand dollars ($1,000) for a second or subsequent violation, to be assessed and collected in a civil action brought by the person paying with a negotiable instrument, by the Attorney General, or by the district attorney or city attorney of the county or city in which the violation occurred. However, no civil penalty shall be assessed for a violation of this section if the defendant shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error made notwithstanding the defendant's maintenance of procedures reasonably adopted to avoid such an error. When

collected, the civil penalty shall be payable, as appropriate, to the person paying with a negotiable instrument who brought the action or to the general fund of whichever governmental entity brought the action to assess the civil penalty.

(c) The Attorney General, or any district attorney or city attorney within his or her respective jurisdiction, may bring an action in the superior court in the name of the people of the State of California to enjoin violation of subdivision (a) and, upon notice to the defendant of not less than five days, to temporarily restrain and enjoin the violation. If it appears to the satisfaction of the court that the defendant has, in fact, violated subdivision (a), the court may issue an injunction restraining further violations, without requiring proof that any person has been damaged by the violation. In these proceedings, if the court finds that the defendant has violated subdivision (a), the court may direct the defendant to pay any or all costs incurred by the Attorney General, district attorney, or city attorney in seeking or obtaining injunctive relief pursuant to this subdivision.

(d) Actions for collection of civil penalties under subdivision (b) and for injunctive relief under subdivision (c) may be consolidated.

(e) For the purposes of this section, the following terms have the following meanings:

(1) "Credit card" has the meaning specified in Section 1747.02, and does not include a check guarantee card.

(2) "Negotiable instrument" has the meaning specified in Section 3104 of the Commercial Code.

(f) This section does not prohibit any person from doing any of the following:

(1) Requiring the production of reasonable forms of positive identification, other than a credit card, which may include a driver's license or a California state identification card, as a condition of acceptance of a negotiable instrument.

(2) Requesting a purchaser to display a credit card as an indicia of creditworthiness or financial responsibility, or as an additional identification, provided the only information concerning the credit card which is recorded is the type of credit card displayed, the issuer of the card, or the expiration date of the card.

(3) Requesting production of, or recording, a credit card number as a condition for cashing a check, provided the person has agreed with the credit card issuer to cash checks as a service to cardholders of the issuer, the issuer has agreed to guarantee cardholder checks cashed by that person, and the cardholder has given actual, apparent, or implied authority for the use of his or her card number in the manner and for the purpose described in this paragraph.

(4) Requesting, receiving, or recording a credit card number in lieu of requiring a deposit to secure payment in event of default, loss, damage, or other occurrence.

(g) This section does not require acceptance of a negotiable instrument whether or not a credit card is presented.

CHAPTER 638

An act to amend Section 10095 of, and to add Section 10095.5 to, the Insurance Code, relating to insurance.

[Approved by Governor September 8, 1990. Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 10095 of the Insurance Code is amended to read:

10095. (a) Within 30 days following the effective date of this chapter, the association shall submit to the commissioner, for his review, a proposed plan of operation, consistent with the provisions of this chapter, creating an association consisting of all insurers licensed to write and engaged in writing in this state, on a direct basis, basic property insurance or any component thereof in homeowners or other dwelling multiperil policies. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to transact such kinds of insurance in this state.

(b) The proposed plan shall authorize the association to assume and cede reinsurance on risks written by insurers in conformity with the program.

(c) Under the plan, each insurer shall participate in the writings, expenses, profits and losses of the association in the proportion that its premiums written during the second preceding calendar year bear to the aggregate premiums written by all insurers in the program, excluding that portion of the premiums written attributable to the operation of the association.

(d) The plan shall provide for administration by a governing committee under rules to be adopted by it with the approval of the commissioner. Voting on administrative questions of the association and facility shall be weighted in accordance with each insurer's premiums written during the second preceding calendar year as disclosed in the reports filed by the insurer with the commissioner.

(e) The plan shall provide for a plan to encourage persons to secure basic property insurance through normal channels from an admitted insurer or a licensed surplus line broker by informing such persons what steps they must take in order to secure such insurance through normal channels.

(f) The plan shall be subject to the approval of the commissioner and shall go into effect upon the tentative approval of the commissioner. The commissioner may, at any time, withdraw his tentative approval or he may, at any time after he has given his final approval revoke such approval if he feels it is necessary to carry out the purposes of the chapter. The withdrawal or revocation of such approval shall not affect the validity of any policies executed prior to

the date of such withdrawal. If the commissioner disapproves or withdraws or revokes his approval to all or any part of the plan of operation, the association shall within 30 days, submit for review an appropriately revised plan or part thereof, and, if the association fails to do so, or if the revised plan so filed is unacceptable, the commissioner shall promulgate such a plan of operation or part thereof as he may deem necessary to carry out the purpose of this chapter.

(g) The association may, on its own initiative or at the request of the commissioner, amend the plan of operation, subject to approval by the commissioner, who shall have supervision of the inspection bureau, the facility and the association. The commissioner or any person designated by him, shall have the power of visitation of and examination into the operation and free access to all the books, records, files, papers, and documents that relate to operation of the facility and association, and may summon, qualify and examine as witnesses all persons having knowledge of such operations including officers, agents or employees thereof.

(h) Every insurer member of the plan shall provide to applicants who are denied coverage the statewide toll-free "800" number for the plan established pursuant to Section 10095.5 for the purpose of obtaining information and assistance in obtaining basic property insurance.

SEC. 2. Section 10095.5 is added to the Insurance Code, to read:

10095.5. (a) The association shall establish and maintain a statewide toll-free "800" number through which persons may receive assistance in applying for insurance through the plan. The association shall cause the number to be published in all general distribution telephone directories in California.

(b) Every insurance agent or broker transacting basic property insurance shall either assist persons in making application for insurance through the plan or provide persons who desire that insurance with the toll-free number established pursuant to subdivision (a).

CHAPTER 639

An act to add Section 308.5 to the Penal Code, relating to video game software.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

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

(a) That minors are very susceptible to alcohol and tobacco

advertisements.

(b) That video games are an inappropriate medium for commercial presentations of alcohol and tobacco products, and the design and sale of video games with these presentations should be prohibited.

SEC. 2. Section 308.5 is added to the Penal Code, to read:

308.5. (a) No person or business shall sell, lease, rent, or provide, or offer to sell, lease, rent, or otherwise offer to the public or to public establishments in this state, any video game intended for either private use or for use in a public establishment and intended primarily for use by any person under the age of 18 years, which contains, in its design and in the on-screen presentation of the video game, any paid commercial advertisement of alcoholic beverage or tobacco product containers or other forms of consumer packaging, particular brand names, trademarks, or copyrighted slogans of alcoholic beverages or tobacco products.

(b) As used in this section, "video game" means any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube, or is designed to be used with a television set or a monitor, that interacts with the user of the device.

(c) A violation of this section is a misdemeanor.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 640

An act to amend Sections 20017.79 and 20017.82 of the Government Code, relating to state employee retirement, and making an appropriation therefor.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990.]

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

SECTION 1. Section 20017.79 of the Government Code is amended to read:

20017.79. "State safety member" shall also include officers and employees of the Board of Prison Terms, Department of Corrections,

the Department of the Youth Authority, or the Prison Industry Authority in the following classifications:

Classification Code	Classification
0617	Industrial Superintendent, Prison Industries (agriculture)
0648	Industrial Supervisor, Prison Industries (crop farm)
0679	Assistant Industrial Superintendent, Prison Industries (agriculture)
0682	Industrial Supervisor, Prison Industries (dairy)
0683	Assistant Dairy Operator
2303	Supervisor of Correctional Education Programs
2370	Supervisor of Vocational Instruction
2384	Supervisor of Commercial Diver Training
2311	Youth Authority Teacher
2429	Vocational Instructor (fire science) (correctional facility)
2433	Vocational Instructor (heavy equipment repair) (correctional facility)
1575	Prison Canteen Manager I
1576	Prison Canteen Manager II
7158	Production Manager III, Prison Industries
7157	Production Manager II, Prison Industries (general)
7156	Production Manager I, Prison Industries
7154	Industrial Superintendent, Prison Industries (maintenance and repair)
7162	Product Engineering Technician, Prison Industries
7163	Production Manager II, Prison Industries (wood products)
7164	Production Manager II, Prison Industries (metal products)
7165	Production Manager II, Prison Industries (textile products)
7170	Industrial Superintendent, Prison Industries (detergent)
7172	Industrial Superintendent, Prison Industries (wood products)
7175	Assistant Industrial Superintendent, Prison Industries (wood products)
7178	Industrial Supervisor, Prison Industries (wood products)

7179	Industrial Supervisor, Prison Industries (upholstery)
7190	Industrial Superintendent, Prison Industries (metal products)
7189	Assistant Industrial Superintendent, Prison Industries (metal products)
7191	Industrial Supervisor, Prison Industries (metal fabrication)
7192	Industrial Supervisor, Prison Industries (tool and die)
7195	Industrial Superintendent, Prison Industries (fabric products)
7196	Industrial Superintendent, Prison Industries (mattress and bedding)
7198	Industrial Supervisor, Prison Industries (fabric products)
7201	Tobacco Factory Superintendent
7205	Industrial Superintendent, Prison Industries (shoe manufacturing)
7206	Industrial Supervisor, Prison Industries (shoes and boots, lasting to packing)
7207	Industrial Supervisor, Prison Industries (shoe manufacturing)
7209	Industrial Superintendent, Prison Industries (knitting mill)
7210	Industrial Supervisor, Prison Industries (knitting mill)
7211	Industrial Supervisor, Prison Industries (knit goods finishing)
7214	Industrial Superintendent, Prison Industries (printing)
7215	Industrial Supervisor, Prison Industries (maintenance and repair)
7216	Industrial Supervisor, Prison Industries (printing)
7218	Industrial Supervisor, Prison Industries (bindery)
2108	Industrial Superintendent, Prison Industries (laundry)
2109	Industrial Supervisor, Prison Industries (laundry)
8215	Senior Medical Technical Assistant
9908	Supervising Social Worker II, Youth Authority
9910	Supervising Social Worker I, Youth Authority
9911	Social Worker, Youth Authority

0716	Supervising Groundskeeper II (correctional facility)
0718	Lead Groundskeeper I (correctional facility)
0720	Lead Groundskeeper (correctional facility)
0743	Groundskeeper (correctional facility)
2004	Janitor Supervisor II (correctional facility)
2005	Janitor Supervisor I (correctional facility)
2006	Janitor (correctional facility)
2044	Supervising Housekeeper I (correctional facility)
2046	Housekeeper (correctional facility)
2068	Shoemaker (correctional facility)
2077	Seamer (correctional facility)
2080	Assistant Seamer (correctional facility)
2084	Barbershop Manager (correctional facility)
2086	Barber (correctional facility)
2111	Laundry Supervisor II (correctional facility)
2114	Laundry Supervisor I (correctional facility)
2117	Laundry Worker (correctional facility)
2120	Launderer (correctional facility)
2150	Food Manager (correctional facility)
2147	Food Administrator II (correctional facility)
2153	Food Administrator I (correctional facility)
2182	Supervising Cook II (correctional facility)
2183	Supervising Cook I (correctional facility)
2186	Cook II (correctional facility)
2187	Cook I (correctional facility)
2221	Baker II (correctional facility)
2224	Baker I (correctional facility)
2245	Butcher—Meat Cutter II (correctional facility)
2195	Food Service Worker II (correctional facility)
2196	Food Service Worker I (correctional facility)
2305	Supervisor of Academic Instruction (correctional facility)

2284	Teacher (arts and crafts) (correctional facility)
2285	Teacher (business education) (correctional facility)
2287	Teacher (elementary education) (correctional facility)
2290	Teacher (high school education) (correctional facility)
2297	Teacher (ethnic studies) (correctional facility)
2291	Teacher (home economics) (correctional facility)
2298	Teacher (librarian) (correctional facility)
2286	Teacher (cerebral palsied children) (correctional facility)
2295	Teacher (recreation and physical education) (correctional facility)
2294	Teacher (music) (correctional facility)
2371	Teacher (speech development and correction) (correctional facility)
2373	Teacher (hearing impaired) (correctional facility)
2292	Teacher (mentally retarded children) (correctional facility)
2288	Teacher (emotionally/learning handicapped) (correctional facility)
2289	Teacher (family life education) (correctional facility)
2423	Vocational Instructor (dog grooming and handling) (correctional facility)
2665	Vocational Instructor (powerplant mechanics) (correctional facility)
2387	Vocational Instructor (airframe mechanics) (correctional facility)
2396	Vocational Instructor (auto body and fender repair) (correctional facility)
2398	Vocational Instructor (auto mechanics) (correctional facility)
2399	Vocational Instructor (baking) (correctional facility)
2400	Vocational Instructor (bookbinding) (correctional facility)
2417	Vocational Instructor (carpentry) (correctional facility)

2420	Vocational Instructor (cosmetology) (correctional facility)
2422	Vocational Instructor (culinary arts) (correctional facility)
2628	Vocational Instructor (merchandising) (correctional facility)
2425	Vocational Instructor (drycleaning works) (correctional facility)
2426	Vocational Instructor (electrical work) (correctional facility)
2428	Vocational Instructor (electronics) (correctional facility)
2431	Vocational Instructor (furniture refinishing and repair) (correctional facility)
2432	Vocational Instructor (garment making) (correctional facility)
2597	Vocational Instructor (household appliance repair) (correctional facility)
2598	Vocational Instructor (industrial arts) (correctional facility)
2599	Vocational Instructor (instrument repair) (correctional facility)
2600	Vocational Instructor (janitorial service) (correctional facility)
2601	Vocational Instructor (landscape gardening) (correctional facility)
2611	Vocational Instructor (laundry work) (correctional facility)
2614	Vocational Instructor (machine shop practice) (correctional facility)
2615	Vocational Instructor (masonry) (correctional facility)
2619	Vocational Instructor (meat cutting) (correctional facility)
2627	Vocational Instructor (mechanical drawing) (correctional facility)
2630	Vocational Instructor (mill and cabinet work) (correctional facility)
2640	Vocational Instructor (offset printing) (correctional facility)
2644	Vocational Instructor (painting) (correctional facility)
2661	Vocational Instructor (plumbing) (correctional facility)
2666	Vocational Instructor (printing) (correctional facility)
2667	Vocational Instructor (radiologic technology) (correctional facility)

2668	Vocational Instructor (refrigeration and air-conditioning repair) (correctional facility)
2669	Vocational Instructor (sewing machine repair) (correctional facility)
2670	Vocational Instructor (sheet metal work) (correctional facility)
2671	Vocational Instructor (shoemaking) (correctional facility)
2672	Vocational Instructor (silk screening process) (correctional facility)
2673	Vocational Instructor (storekeeping and warehousing) (correctional facility)
2674	Vocational Instructor (office machine repair) (correctional facility)
2675	Vocational Instructor (upholstering) (correctional facility)
2419	Vocational Instructor (commercial diver training) (correctional facility)
2677	Vocational Instructor (welding) (correctional facility)
2676	Vocational Instructor (vocational nursing) (correctional facility)
2853	Vocational Instructor (animal husbandry) (correctional facility)
2854	Vocational Instructor (building maintenance) (correctional facility)
2855	Vocational Instructor (computer and related technologies) (correctional facility)
2856	Vocational Instructor (diesel mechanics) (correctional facility)
2857	Vocational Instructor (drywall installer/taper) (correctional facility)
2858	Vocational Instructor (floor cover layer) (correctional facility)
2847	Vocational Instructor (glazier) (correctional facility)
2848	Vocational Instructor (insulation installer, building and pipes) (correctional facility)
2849	Vocational Instructor (office services and related technologies) (correctional facility)
2850	Vocational Instructor (roofer) (correctional facility)

2851	Vocational Instructor (small engine repair) (correctional facility)
2945	Senior Librarian (correctional facility)
2952	Librarian (correctional facility)
6216	Building Maintenance Worker (correctional facility)
6221	Warehouse Worker (correctional facility)
1502	Warehouse Manager II (correctional facility)
1504	Warehouse Manager I (correctional facility)
1505	Materials and Stores Supervisor II (correctional facility)
1508	Materials and Stores Supervisor I (correctional facility)
6379	Heavy Truck Driver (correctional facility)
6382	Truck Driver (correctional facility)
6392	Automotive Equipment Operator II (correctional facility)
6394	Automotive Equipment Operator I (correctional facility)
6471	Carpenter III (correctional facility)
6483	Carpenter I (correctional facility)
6521	Painter III (correctional facility)
6524	Painter II (correctional facility)
6474	Carpenter II (correctional facility)
6528	Painter I (correctional facility)
6534	Electrician III (correctional facility)
6538	Electrician II (correctional facility)
6544	Electrician I (correctional facility)
6545	Plumber III (correctional facility)
6550	Plumber I (correctional facility)
6557	Steamfitter Supervisor (correctional facility)
6559	Steamfitter (correctional facility)
6617	Mason (correctional facility)
6941	Maintenance Mechanic (correctional facility)
6643	Locksmith I (correctional facility)
6699	Chief Engineer I (correctional facility)
6713	Stationary Engineer (correctional facility)
6718	Stationary Engineer Apprentice (four-year program) (correctional facility)

6715	Refrigeration Engineer (correctional facility)
6724	Water and Sewage Plant Supervisor (correctional facility)
6748	Chief of Plant Operation III (correctional facility)
6751	Chief of Plant Operation II (correctional facility)
6754	Chief of Plant Operation I (correctional facility)
6763	Supervisor of Building Trades (correctional facility)
6865	Equipment Maintenance Supervisor (correctional facility)
6867	Lead Automobile Mechanic (correctional facility)
6868	Automobile Mechanic (correctional facility)
6893	Automotive Pool Manager I (correctional facility)
6916	Electronics Technician (correctional facility)
8217	Medical Technical Assistant (correctional facility)
2645	Vocational Instructor (Plastering) (correctional facility)
7200	Dry Cleaning Plant Supervisor
6772	Utility Shops Supervisor (correctional facility)
6801	Machinist (correctional facility)
6826	Heavy Equipment Mechanic (correctional facility)
2688	Vocational Instructor (Eyewear Manufacturing) (correctional facility)
2940	Supervising Librarian (correctional facility)
6594	Plumber II (correctional facility)
7194	Assistant Industrial Superintendent, Prison Industries (fabric products)
7197	Industrial Supervisor, Prison Industries (mattress and bedding)
7217	Industrial Superintendent, Prison Industries (bindery)
6696	Chief Engineer II (correctional facility)
2000	Janitor Supervisor III (correctional facility)

6222	Laborer (correctional facility)
6955	Fusion Welder (correctional facility)
6211	Skilled Laborer (correctional facility)
2156	Assistant Food Manager (correctional facility)
4132	Construction Supervisor (correctional facility)
6628	Glazier (correctional facility)
7145	Quality Assurance Manager
7146	Chief, Quality Assurance
4110	Chief, Day Labor Program (correctional facility)
4109	Construction Supervisor III (correctional facility)
4108	Construction Supervisor II (correctional facility)
4107	Construction Supervisor I (correctional facility)
2015	Chief Assistant General Manager, Prison Industries
4302	Assistant General Manager, Operations
7199	Pest Control Technician (correctional facility)

In addition, "state safety member" shall also include officers and employees of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority in any classification of vocational instructor, industrial supervisor, industrial superintendent, assistant industrial superintendent, or production manager II (prison industries) which is established on or after January 1, 1984, if the Department of Personnel Administration and the State Personnel Board approve the inclusion of the classification.

"State safety member" shall also include officers and employees in parenthetical specialty classes when the core class has already been expressly included in the state safety membership category if the Department of Personnel Administration and the State Personnel Board approve the inclusion of the classifications. The inclusion shall not be effective until notice thereof has been received by the Board of Administration.

Any such officer or employee in employment on the operative date of an amendment to this section and who becomes a state safety member as a result of that amendment, may elect by a writing filed with the board prior to 90 days after notification by the board, to be restored to his or her previous status as a state industrial member. Upon the filing of such election the member shall cease to be a state safety member, and his or her rights and obligations shall be restored prospectively and retroactively to the operative date of that

amendment.

SEC. 2. Section 20017.82 of the Government Code is amended to read:

20017.82. "State safety member" also includes officers and employees with the State Department of Mental Health or the Department of Forestry and Fire Protection in the following classifications:

Classification Code	Classification Title
8094	Registered Nurse (forensic facility)
2861	Audio Visual Specialist (correctional facility)
2860	Audio Visual Assistant (correctional facility)

"State safety member" also includes an officer or employee of the State Department of Mental Health at Patton State Hospital or Atascadero State Hospital, who either is excluded from the definition of state employee in subdivision (c) of Section 3513, is a supervisory employee as defined by Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service. An officer or employee may be a state safety member under this paragraph only if the person has responsibility for the supervision of state safety personnel specified in the classifications listed in this section and if the State Personnel Board determines that these officers and employees meet the state safety membership criteria established pursuant to Section 18717. The Department of Personnel Administration shall determine which classes meet the above conditions and report its findings to the Public Employees' Retirement System, whereupon the change in membership categories shall take effect.

Any person so designated pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous service retirement benefit and contribution rate 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.

CHAPTER 641

An act to amend Section 4047.9 of the Business and Professions Code, relating to prescription drugs.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 4047.9 of the Business and Professions Code is amended to read:

4047.9. (a) A pharmacist shall inform a patient orally or in writing of the harmful effects of a drug dispensed by prescription if the drug poses substantial risk to the person consuming the drug when taken in combination with alcohol or if the drug may impair a person's ability to drive a motor vehicle, whichever is applicable, and provided the drug is determined by the board pursuant to subdivision (b) to be a drug or drug type for which such warning shall be given.

(b) The board shall determine which drugs or drug types pose a substantial risk to the person consuming the drug if taken in combination with alcohol or which may impair a person's ability to drive a motor vehicle, and the board shall provide each pharmacy in this state with a list of such drugs or drug types.

(c) A pharmacist shall be responsible for providing a label or enclosure with the drug container whenever the prescribed drug has not previously been dispensed to the patient, or whenever the prescribed drug has been dispensed in a different dosage, form, strength or with different written instructions. The label or enclosure shall read, "Consult your pharmacist or physician with a list of medications you are currently taking if you have any questions about adverse drug reactions." The print on the label shall be no smaller than 12-point.

(d) This section shall not apply to drugs furnished to patients in conjunction with treatment or emergency services provided in health facilities defined by subdivision (a) or (b) of Section 1250 of the Health and Safety Code.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 642

An act to amend Section 35001 of the Education Code, relating to school districts.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 35001 of the Education Code is amended to read:

35001. (a) Whenever a petition is presented to the governing board of a school district, signed by at least 15 qualified electors of that school district, asking that the name of the district be changed and stating the new name requested, the governing board 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 governing board shall give or cause to be given notice to all parties interested by publication in a newspaper published within the school district, or, if there is none, in any newspaper published in the county, of the time set for the hearing of the petition. The notice shall be published at least twice before the day set for hearing. At the hearing the board shall by resolution either grant or deny the petition, and, if granted, shall notify the county superintendent of schools of the change of the name of the district. The board shall also certify the name change to the county clerk of each county in which any part of the school district is situated. The name change shall also be entered in the records of the governing board.

(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).

CHAPTER 643

An act to amend Section 11413 of the Penal Code, relating to crimes.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 11413 of the Penal Code is amended to read:

11413. (a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive, or who commits arson, in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony, and shall be punished by imprisonment in the state prison for three, five, or seven years, and a fine not exceeding ten thousand dollars ($10,000).

(b) Subdivision (a) applies to the following places:

(1) Any health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or any place where medical care is provided by a licensed health care professional.

(2) Any church, temple, synagogue, or other place of worship.

(3) The buildings, offices, and meeting sites of organizations that counsel for or against abortion or among whose major activities are lobbying, publicizing, or organizing with respect to public or private issues relating to abortion.

(4) Any place at which a lecture, film-showing, or other private meeting or presentation that educates or propagates with respect to abortion practices or policies, whether on private property or at a meeting site authorized for specific use by a private group on public property, is taking place.

(5) Any bookstore or public or private library

(6) Any building or facility designated as a courthouse.

(7) The home or office of a judicial officer.

(c) As used in this section, "judicial officer" means a magistrate, judge, justice, commissioner, referee, or any person appointed by a court to serve in one of these capacities, of any state or federal court located in this state.

(d) As used in this section, "terrorizing" means to cause a person of ordinary emotions and sensibilities to fear for personal safety.

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. Notwithstanding Section 17580 of the Government Code, unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 644

An act to amend Sections 3822, 3822.1, and 3823 of, and to add Section 3809 to, the Public Resources Code, relating to geothermal resources, and making an appropriation therefor.

[Approved by Governor September 8, 1990. Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 3809 is added to the Public Resources Code, to read:

3809. "Private entity" means any individual or organization engaged in the exploration and development of geothermal energy for profit.

SEC. 2. Section 3822 of the Public Resources Code is amended to read:

3822. (a) Thirty percent of the revenues received and deposited in the Geothermal Resources Development Account shall be available for expenditure by the State Energy Resources Conservation and Development Commission as grants or loans to local jurisdictions or loans to private entities without regard to fiscal years. These revenues shall be held by the State Energy Resources Conservation and Development Commission in the Local Government Geothermal Resources Revolving Subaccount, which is hereby created within the Geothermal Resources Development Account. Loan repayments shall be deposited in the subaccount and shall be used for making additional grants and loans pursuant to Section 3823.

(b) No local jurisdiction shall be eligible to apply for a grant or loan pursuant to this section unless its governing body approves the application by resolution.

(c) Each recipient of a grant or loan made pursuant to this section shall establish for deposit of the revenues an account or fund separate from the other accounts and funds of the recipient and may expend the revenues only for the purposes specified in this chapter.

(d) The State Energy Resources Conservation and Development Commission shall make grants and loans pursuant to this section irrespective of whether a local jurisdiction is a county of origin.

(e) Any of the revenues that are not disbursed as grants or loans pursuant to this section during the fiscal year received shall be retained in the subaccount and may be disbursed as grants or loans pursuant to this section in succeeding fiscal years.

(f) Any loan made under this section shall (1) not exceed 80 percent of the local jurisdiction's costs, (2) bear an interest rate no greater than 8 percent per year, and (3) be repayed together with interest within 20 years from receipt of the loan funds.

(g) Any loan made to a private entity under this section shall (1) be matched with at least an equal investment by the recipient, (2) provide tangible benefits, as determined by the State Energy Resources Conservation and Development Commission, to a local jurisdiction, and (3) be approved by the city, county, or Indian reservation within which the project is to be located.

SEC. 3. Section 3822.1 of the Public Resources Code is amended to read:

3822.1. (a) Notwithstanding any other provision of law, commencing with the 1984–85 fiscal year and in each fiscal year thereafter, any revenues not granted pursuant to Section 3822 remaining in the Geothermal Resources Development Account and any revenues expected to be received and disbursed during the 1984–85 fiscal year and in each fiscal year thereafter shall be made a part of the Governor's Budget. The State Energy Resources Conservation and Development Commission shall submit to the Legislature by April 1 of each year a list of projects, each selected and prioritized by the State Energy Resources Conservation and Development Commission pursuant to Section 3822.

(b) In the case of unforeseen or urgent projects which the State Energy Resources Conservation and Development Commission wishes to approve but which are not included in the April 1 budget list required by subdivision (a), the commission may approve those projects after notifying and inviting comments from the Joint Legislative Budget Committee. Notification shall include a written description of the following:

(1) The necessity of the project and the reason for the urgency.

(2) The reason the project was not included in the list required by subdivision (a) or the reason the project cannot wait until the next list required by subdivision (a).

(3) The fiscal advantages of the project.

(4) The economic impact of waiting until the next submission of the list required by subdivision (a).

No funding agreement for any project may be executed by the State Energy Resources Conservation and Development Commission, and no work on the project may be started by the prospective funding recipient until at least 30 days after that notification has been made and the terms of this subdivision have been met.

SEC. 4. Section 3823 of the Public Resources Code is amended to read:

3823. Revenues disbursed to counties of origin pursuant to Section 3821 and grants or loans made to local jurisdictions or loans to private entities pursuant to Section 3822 shall be expended by the recipient for the following purposes:

(a) Undertaking research and development projects relating to geothermal resource assessment and exploration, and direct-use and electric generation technology.

(b) Local and regional planning and policy development and implementation necessary for compliance with programs required by local, state, or federal laws and regulations.

(c) Identification of feasible measures that will mitigate the adverse impacts of the development of geothermal resources and the adoption of ordinances, regulations, and guidelines to implement those measures.

(d) Collecting baseline data and conducting environmental monitoring.

(e) Preparation or revision of geothermal resource elements, or geothermal components of energy elements, for inclusion in the local general plan, zoning and other ordinances, and related planning and environmental documents.

(f) Administrative costs incurred by the local jurisdiction that are attributable to the development or production of geothermal resources.

(g) Monitoring and inspecting geothermal facilities and related activities to assure compliance with applicable laws, regulations, and ordinances.

(h) Identifying, researching, and implementing feasible measures that will mitigate the adverse impacts of that development or production.

(i) Planning, constructing, providing, operating, and maintaining those public services and facilities that are necessitated by and result from the development or production.

(j) Undertaking projects demonstrating the technical and economic feasibility of geothermal direct heat and electrical generation applications.

(k) Undertaking projects for the enhancement, restoration, or preservation of natural resources, including, but not limited to, water development, water quality improvement, fisheries enhancement, and park and recreation facilities and areas.

SEC. 6. Notwithstanding any other provision of law, an amount not to exceed two hundred thousand dollars ($200,000) may be expended during the 1990–91 fiscal year by the State Energy Resources Conservation and Development Commission from the revenues available to the commission pursuant to Section 3822 of the Public Resources Code for the purpose of investigating the cause of steam decline at the Geysers and for direct technical assistance to local jurisdictions eligible to receive funding from the Geothermal Resources Development Account.

CHAPTER 645

An act to amend Sections 798.74 and 798.75 of the Civil Code, relating to mobilehome parks.

[Approved by Governor September 8, 1990. Filed with Secretary of State September 11, 1990.]

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

SECTION 1. Section 798.74 of the Civil Code is amended to read:

798.74. (a) The management may require the right of prior approval of a purchaser of a mobilehome that will remain in the park and that the selling homeowner or his or her agent give notice of the sale to the management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the rent and charges of the park unless the management reasonably determines that, based on the purchaser's prior tenancies, he or she will not comply with the rules and regulations of the park. In determining whether the purchaser has the financial ability to pay the rent and charges of the park, the management shall not require the purchaser to submit copies of any personal income tax returns in order to obtain approval for residency in the park. However, management may require the purchaser to document the amount and source of his or her gross monthly income or means of financial support.

Upon request of any prospective homeowner who proposes to purchase a mobilehome that will remain in the park, management shall inform that person of the information management will require in order to determine if the person will be acceptable as a homeowner in the park.

Within 15 business days of receiving all of the information requested from the prospective homeowner, the management shall notify the seller and the prospective homeowner, in writing, of either acceptance or rejection of the application, and the reason if rejected. During this 15-day period the prospective homeowner shall comply with the management's request, if any, for a personal interview. If the approval of a prospective homeowner is withheld for any reason other than those stated in this article, the management or owner may be held liable for all damages proximately resulting therefrom.

(b) If the management collects a fee or charge from a prospective purchaser of a mobilehome in order to obtain a financial report or credit rating, the full amount of the fee or charge shall be credited toward payment of the first month's rent for that mobilehome purchaser. If, for whatever reason, the prospective purchaser is rejected by the management, the management shall refund to the prospective purchaser the full amount of that fee or charge within 30 days from the date of rejection. If the prospective purchaser is approved by the management, but, for whatever reason, the

prospective purchaser elects not to purchase the mobilehome, the management may retain the fee, or a portion thereof, to defray its administrative costs under this section.

SEC. 2. Section 798.75 of the Civil Code is amended to read:

798.75. (a) An escrow, sale, or transfer agreement involving a mobilehome located in a park at the time of the sale, where the mobilehome is to remain in the park, shall contain a copy of either a fully executed rental agreement or a statement signed by the park's management and the prospective homeowner that the parties have agreed to the terms and conditions of a rental agreement.

(b) In the event the purchaser fails to execute the rental agreement, the purchaser shall not have any rights of tenancy.

(c) In the event that an occupant of a mobilehome has no rights of tenancy and is not otherwise entitled to occupy the mobilehome pursuant to this chapter, the occupant is considered an unlawful occupant if, after a demand is made for the surrender of the mobilehome park site, for a period of five days, the occupant refuses to surrender the site to the mobilehome park management. In the event the unlawful occupant fails to comply with the demand, the unlawful occupant shall be subject to the proceedings set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure.

(d) The occupant of the mobilehome shall not be considered an unlawful occupant and shall not be subject to the provisions of subdivision (c) if all of the following conditions are present:

(1) The occupant is the registered owner of the mobilehome.

(2) The management has determined that the occupant has the financial ability to pay the rent and charges of the park; will comply with the rules and regulations of the park, based on the occupant's prior tenancies; and will comply with this article.

(3) The management failed or refused to offer the occupant a rental agreement.

CHAPTER 646

An act relating to the Office of Real Estate Appraisers.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990.]

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

SECTION 1. The Office of Real Estate Appraisers shall conduct a study on the feasibility of requiring all persons who perform or issue appraisals of real property to be licensed and the office shall report the results of that study to the Legislature on or before January 1, 1992.

SEC. 2. This act shall become effective only if Assembly Bill 527

is enacted and becomes effective on or before January 1, 1991.

CHAPTER 647

An act to add and repeal Chapter 5.1 (commencing with Section 2220) of Division 3 of, and to repeal Section 2355 of, the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1990. Filed with Secretary of State September 11, 1990]

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

SECTION 1. Pursuant to Section 137 of the Federal-Aid Highway Act of 1987 (Public Law 100-17), the Secretary of Transportation has selected California as one of five states to participate in a combined road plan demonstration program to demonstrate an alternative administration of the federal-aid secondary program, federal-aid urban program, and the off-system bridge, urban bridge, and secondary bridge programs. The demonstration program will operate as a single category apportionment for the remainder of the Federal-Aid Highway Act of 1987.

SEC. 2. Chapter 5.1 (commencing with Section 2220) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 5.1. COMBINED ROAD PLAN

2220. This chapter shall be known and may be cited as the Federal-Aid Combined Road Plan Act.

2221. The purpose of this chapter is to implement the combined road plan demonstration program, pursuant to Section 137 of the Federal-Aid Highway Act of 1987, in this state in a manner compatible and consistent with historic programming goals. The department shall establish and distribute interim guidelines to appropriate local representatives with respect to the programming and management of combined road plan apportionments. The guidelines 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.

2222. Notwithstanding Chapters 5 (commencing with Section 2200), 7 (commencing with Section 2350), and 9 (commencing with Section 2400), this chapter applies to the administration of the Federal-Aid Combined Road Plan Demonstration Program as to funds appropriated under the Federal-Aid Highway Act of 1987, for the federal-aid secondary program, federal-aid urban program, and the off-system bridge, urban bridge, and secondary bridge programs.

2223. Combined road plan apportionments received by this state

under the Federal-Aid Highway Act of 1987 shall be allocated by the department to city, county, and urbanized areas consistent with procedures established under Chapters 5 (commencing with Section 2200) and 7 (commencing with Section 2350). That portion of combined road plan apportionments attributable to the federal bridge reconstruction and replacement program shall be obligated to bridge construction or other eligible use approved by the department.

2224. (a) To assist the department in the performance of its duties in relation thereto, there is a statewide Combined Road Plan Committee, which consists of the following members:

(1) One urban representative of a regional transportation planning agency selected by the California Association of Councils of Governments.

(2) One rural representative of a regional transportation planning agency selected by the California Association of Councils of Governments.

(3) Two representatives of the California Transit Association, one of whom shall be a representative of a rail operator, and one of whom shall be a representative of a bus operator.

(4) One representative selected by the statutorily created county transportation commissions from the Counties of Los Angeles, Orange, Riverside, and San Bernardino.

(5) Six representatives, of whom three shall be from northern California, selected by the League of California Cities.

(6) Four representatives, of whom two shall be from northern California, selected by the County Supervisors Association of California.

(7) One representative from the department, who shall serve as an ex officio member.

(8) The Regional Division Administrator of the Federal Highway Administration, or the administrator's designated representative, who shall serve as an ex officio member.

The names of the members of the committee shall be submitted to the director not later than 45 days after the date this section becomes operative.

(b) The committee shall advise the department on the administration of combined road plan apportionments and the establishment of interim guidelines for the use of all available apportionments within the demonstration period. The interim guidelines shall include, but not be limited to, a requirement that any funds apportioned under the Federal-Aid Combined Road Plan Demonstration Program pursuant to Section 2223 which are subject to reallocation shall be, as a first priority, reallocated to another local entity within the same county. The department may delegate authority for the establishment of local area guidelines to county combined road plan committees.

2225. Section 2360 does not apply to funds apportioned and allocated under the combined road plan demonstration program.

2226. For the duration of the combined road plan demonstration program, state matching funds and state exchange funds under Sections 2209 and 2210 shall continue to be made available, in the same amounts, to those agencies which received those funds in the 1988–89 fiscal year.

2227. This chapter shall remain operative until the director determines that the federal combined road plan demonstration program is no longer in effect. The director shall submit a notice of the determination under this section to the Secretary of State, and this chapter shall be repealed on January 1 next following the receipt of that notice by the Secretary of State.

SEC. 3. Section 2355 of the Streets and Highways Code is repealed.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the benefits which will result from adminstration of the Federal-Aid Combined Road Plan Demonstration Program to be realized as soon as possible, and in order for the plan to apply to the maximum amount of the appropriations of the Federal-Aid Highway Act of 1987, it is necessary that this act take effect immediately.

CHAPTER 648

An act to amend Sections 5019.5 and 5019.7 of, and to repeal Section 5019.6 of, the Education Code, relating to school districts.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 5019.5 of the Education Code is amended to read:

5019.5. (a) Following each decennial federal census, and using

population figures as validated by the Population Research Unit of the Department of Finance as a basis, the governing board of each school district or community college district in which trustee areas have been established, and in which each trustee is elected by the residents of the area he or she represents, shall adjust the boundaries of any or all of the trustee areas of the district so that one or both of the following conditions is satisfied:

(1) The population of each area is, as nearly as may be, the same proportion of the total population of the district as the ratio that the number of governing board members elected from the area bears to the total number of members of the governing board.

(2) The population of each area is, as nearly as may be, the same proportion of the total population of the district as each of the other areas.

(b) The boundaries of the trustee areas shall be adjusted by the governing board of each school district or community college district, in accordance with subdivision (a), before the first day of March of the year following the year in which the results of each decennial census are released. If the governing board fails to adjust the boundaries before the first day of March of the year following the year in which the results of each decennial census are released, the county committee on school district organization shall do so before the 30th day of April of the same year.

The governing board of the school district or community college district shall reimburse all reasonable costs incurred by a county committee in adjusting the boundaries pursuant to this subdivision.

(c) Except to the extent that the adjustment of trustee area boundaries is necessary for the purposes set forth in this section, the authority to establish or abolish trustee areas, rearrange the boundaries of trustee areas, increase or decrease the number of members of the governing board, or adopt any method of electing governing board members may be exercised only as otherwise provided under this article.

SEC. 2. Section 5019.6 of the Education Code is repealed.

SEC. 3. Section 5019.7 of the Education Code is amended to read:

5019.7. Section 5019.5 shall not apply to multiple campus community college districts with campuses in more than one county.

CHAPTER 649

An act to amend Section 7526 of, and to add Section 7590.5 to, the Business and Professions Code, relating to the Bureau of Collection and Investigative Services.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 7526 of the Business and Professions Code is amended to read:

7526. Before an application for a license or registration is granted, the applicant for a license or his or her manager or the applicant for a security guard registration, shall meet all of the following:

(a) Be at least 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of a license under Section 480.

(c) Comply with the requirements specified in this chapter for the particular license or registration for which an application is made.

(d) Comply with other qualifications as the director may fix by rule.

SEC. 2. Section 7590.5 is added to the Business and Professions Code, to read:

7590.5. Notwithstanding any other requirements for licensure as an alarm company operator or for registration as an alarm agent pursuant to this chapter, an applicant for an alarm company operator license or an alarm agent registration shall be at least 18 years of age. This section shall apply only to applications for licensure or registration or applications for renewal of that licensure or registration submitted to the bureau on or after January 1, 1991.

CHAPTER 650

An act to amend Section 11166.2 of the Penal Code, relating to crimes.

[Approved by Governor September 8, 1990. Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 11166.2 of the Penal Code is amended to read:

11166.2. In addition to the reports required under Section 11166, a child protective agency shall immediately or as soon as practically

possible report by telephone to the appropriate licensing agency every known or suspected instance of child abuse when the instance of abuse occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. A child protective agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. A child protective agency shall send the licensing agency a copy of its investigation report and any other pertinent materials.

CHAPTER 651

An act to add Sections 31680.4 and 31680.5 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 8, 1990. Filed with Secretary of State September 11, 1990.]

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

SECTION 1. Section 31680.4 is added to the Government Code, to read:

31680.4. Notwithstanding any other provision of law, a member retired for service and reemployed in a county or district under this chapter shall become again an active member of the retirement association upon (a) his or her application to the board for reinstatement, (b) the determination of the board, based upon medical examination, that he or she is not incapacitated for the duties assigned to him or her; and (c) meeting the conditions for membership in Article 4 (commencing with Section 31550) are met.

For the purposes of this section, the effective date of the member's reinstatement to active membership shall be the first day of the month following the date of reemployment.

Except as permitted in Section 31680.2 or 31680.3, the retirement allowance of the member shall be canceled on the effective date of the member's reemployment and shall be resumed only upon the subsequent termination of the member from employment.

This section shall not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section and Section 31680.5 operative in that county.

SEC. 2. Section 31680.5 is added to the Government Code, to read:

31680.5. (a) Upon reinstatement, pursuant to Section 31680.4, the member's rate of contributions and retirement allowance upon subsequent retirement shall be determined as if the member were first entering the system.

Solely for the purpose of determining the member's eligibility for service retirement under this section, service shall include the member's credited service prior to reinstatement.

(b) The member's allowance upon his or her service or disability retirement or other termination subsequent to the reinstatement shall be the sum of (1) his or her retirement allowance calculated on the basis of credited service rendered after reinstatement in accordance with the formula applicable to him or her plus (2) his or her retirement allowance as it was prior to reinstatement, adjusted by any change after reinstatement in the provisions governing the calculation of his or her allowance which would have applied to him or her had he or she continued in retirement.

The retirement allowance otherwise payable under this section to a member whose allowance prior to reinstatement was paid pursuant to his or her election under Section 31810 shall be reduced as provided in Section 31810. However, for a member reinstated pursuant to Section 31680.4 prior to attaining age 62, the reduction required by Section 31810 shall be the amount which is the actuarial value of the increase in the allowance from date of retirement to date of reinstatement.

Notwithstanding any other provision of this chapter, the retirement allowance payable to any member subject to this section for any credited service for which a retirement allowance was paid prior to reinstatement shall not be less than the retirement allowance which would have been payable on the date of the subsequent retirement had the member not been reinstated, adjusted, however, by any reduction under this section because of an election under Section 31810.

(c) Notwithstanding Article 10 (commencing with Section 31720), upon retirement for disability subsequent to reinstatement, a member shall receive a disability retirement allowance as follows:

(1) A service-connected disability allowance shall be equal to one-half of his or her final compensation or an allowance computed as prescribed by subdivision (b), whichever is greater.

(2) A nonservice-connected disability allowance shall be computed using the method prescribed by subdivision (b).

(d) This section shall not be operative in any county until the board of supervisors, by resolution adopted by a majority vote, makes this section and Section 31680.4 operative in that county.

(e) This section shall not be applicable in a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

CHAPTER 652

An act to amend Section 31535 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990.]

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

SECTION 1. Section 31535 of the Government Code is amended to read:

31535. The board may issue subpoenas and subpoenas duces tecum, and compensate persons subpoenaed. This power shall be exercised and enforced in the same manner as the similar power granted the board of supervisors in Article 9 (commencing with Section 25170) of Chapter 1, Part 2, Division 2; except that the power shall extend only to matters within the retirement board's jurisdiction, and committees of the board shall not have this power. Reasonable fees and expenses may be provided for by board regulation for any or all of such witnesses regardless of which party subpoenaed them.

Subpoenas shall be signed by the chairman or secretary of the retirement board, except that the board may by regulation provide for express written delegation of its subpoena power to any referee it appoints pursuant to this chapter or to any administrator appointed pursuant to Section 31522.2.

Any member of the board, the referee, or any person otherwise empowered to issue subpoenas may administer oaths to, or take depositions from, witnesses before the board or referee.

CHAPTER 653

An act to amend Section 12280 of, and to add Section 12287 to, the Penal Code, relating to firearms.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

SECTION 1. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who within this state manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in the county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to a declaration issued pursuant to Section 12276.5 declaring that firearm to be an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm subject to this chapter pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars ($500), but not less than three hundred fifty dollars ($350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(d) Subdivisions (a) and (b) do not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Department of Corrections, the California Highway Patrol, the California State Police, district attorneys' offices, 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 or use of assault weapons by sworn members of these agencies when on duty and the use is within the scope of their duties.

(e) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (d).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United

States State Department.

SEC. 2. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who within this state manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in the county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to a declaration issued pursuant to Section 12276.5 declaring that firearm to be an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm subject to this chapter pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars ($500), but not less than three hundred fifty dollars ($350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(d) Subdivisions (a) and (b) do not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Department of Corrections, the California Highway Patrol, the California State Police, district attorneys' offices, 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 or use of assault weapons by sworn members of these agencies when on duty and the use is within the scope of their duties.

(e) Subdivision (b) does not apply to the possession of an assault weapon by any person during the 1990 calendar year if all of the following are applicable:

(1) The person is eligible under this chapter to register the

particular assault weapon by January 1, 1991.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989.

(3) The person is otherwise in compliance with this chapter.

(f) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (d).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

SEC. 3. Section 12287 is added to the Penal Code, to read:

12287. (a) The Department of Justice may, upon a finding of good cause, issue permits for the manufacture of assault weapons to federally licensed manufacturers of firearms for the sale to, purchase by, or possession of assault weapons by, any of the following:

(1) The agencies listed in subdivision (d) of Section 12280.

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal law enforcement and military agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(b) Application for the permits, the keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

SEC. 4. Section 2 of this bill incorporates amendments to Section 12280 of the Penal Code proposed by this bill and SB 830. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1991, (2) each bill amends Section 12280 of the Penal Code, and (3) this bill is enacted after SB 830, in which case Section 12280 of the Penal Code, as amended by SB 830, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 654

An act to add Sections 5328.05 and 9356 to the Welfare and Institutions Code, relating to disclosure of confidential information.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990.]

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

SECTION 1. Section 5328.05 is added to the Welfare and Institutions Code, to read:

5328.05. (a) Notwithstanding Section 5328, information and records may be disclosed when an older adult client, in the opinion of a designee of a human service agency serving older adults through an established multidisciplinary team, presents signs or symptoms of elder abuse or neglect, whether inflicted by another or self-inflicted, the agency designee to the multidisciplinary team may, with the older adult's consent, obtain information from other county agencies regarding, and limited to, whether or not a client is receiving services from any other county agency.

(b) The information obtained pursuant to subdivision (a) shall not include information regarding the nature of the treatment or services provided, and shall be shared among multidisciplinary team members for multidisciplinary team activities pursuant to this section.

(c) The county agencies which may cooperate and share information under this section shall have staff designated as members of an established multidisciplinary team, and include, but not be limited to, the county departments of public social services, health, mental health, and alcohol and drug abuse, the public guardian, and the area agencies on aging.

(d) The county patient's rights advocate shall report any negative consequences of the implementation of this exception to confidentiality requirements to the local mental health director.

SEC. 2. Section 9356 is added to the Welfare and Institutions Code, to read:

9356. Area agencies on aging, and other county agencies which provide services to older adults through an established multidisciplinary team, including the county departments of public social services, health, mental health, alcohol and drug abuse, and the public guardian, may provide information regarding older adult clients only to other county agencies with staff designated as members of a multidisciplinary team that are, or may be, providing services to the same individuals for purposes of identifying, and coordinating the treatment of, individuals who are served by more than one agency.

The county patients' rights advocate shall report any negative consequences of the implementation of this exception to

confidentiality requirements to the local mental health director.

CHAPTER 655

An act to amend Section 84102 of, and to amend and renumber Section 84106 of, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990.]

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

SECTION 1. Section 84102 of the Government Code is amended to read:

84102. The statement of organization required by Section 84101 shall include:

(a) The name, street address and telephone number, if any, of the committee. In the case of a sponsored committee, the name of the committee shall include the name of its sponsor. Whenever a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee.

(b) In the case of a sponsored committee, the name, street address and telephone number of each sponsor.

(c) The full name, street address and telephone number, if any, of the treasurer and other principal officers.

(d) The full name and office sought by any candidate and the title and ballot number, if any, of any measure, which the committee supports or opposes as its primary activity. A committee which does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics such as a political party affiliation.

(e) A statement whether the committee is independent or controlled, and if it is controlled, the name of each candidate, or state measure proponent by which it is controlled, or the name of any controlled committee with which it acts jointly.

(f) The disposition of surplus funds which will be made in the event of dissolution.

(g) Such other information as shall be required by the rules or regulations of the commission consistent with the purposes and provisions of this chapter.

SEC. 2. Section 84106 of the Government Code, as added by Proposition 68 at the June 7, 1988, primary election, is amended and renumbered to read:

84106.5. Identification of Committees

The name of any committee shall include or be accompanied by the name of any individual, entity, or other person by which the committee is controlled. Any committee required to file a statement of organization shall amend its statement to comply with this section within 30 days of the effective date of this act.

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 penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 4. The Legislature finds and declares that this act furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 656

An act to repeal and add Article 36 (commencing with Section 74920) of Chapter 10 of Title 8 of the Government Code, relating to municipal courts.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 11, 1990]

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

SECTION 1. Article 36 (commencing with Section 74920) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 2. Article 36 (commencing with Section 74920) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 36. Tulare County

74920. There is in the County of Tulare a single municipal court district known as the Tulare County Municipal Court District.

74920.1. The Tulare County Municipal Court District consists of the following divisions embracing that territory which was within the following judicial districts in the County of Tulare as they existed on December 31, 1990, and as those divisions are thereafter modified by the board of supervisors or by operation of law:

(a) The Porterville Division, comprising the territory within the former Porterville Municipal Court District.

(b) The Central Division, comprising the territory within the former Lindsay Judicial District, Exeter-Farmersville Judicial

District and Woodlake Judicial District.

(c) The Visalia Division, comprising the territory within the former Visalia Municipal Court District.

(d) The Tulare-Pixley Division, comprising the territory within the former Tulare-Pixley Municipal Court District.

(e) The Dinuba Division, comprising the territory within the former Dinuba Judicial District.

74920.5. On the order of the board of supervisors, sessions of the Tulare-Pixley Division shall be held within the territory embraced by the Pixley Judicial District as it existed on December 31, 1974.

74920.6. On order of the board of supervisors, sessions and services of the Central Division shall be held in the City of Woodlake, the City of Lindsay, and the City of Exeter.

74921. The number of judges in each division is, as follows:

(a) Porterville Division—two.

(b) Central Division—one.

(c) Visalia Division—three.

(d) Tulare-Pixley Division—two.

(e) Dinuba Division—one.

Notwithstanding subdivision (c) of Section 77200, these judges shall not be deemed to constitute judgeships authorized on or after January 1, 1990, for purposes of the Brown-Presley Trial Court Funding Act.

74921.1. Notwithstanding Section 71080, upon the establishment of the Tulare County Municipal Court District, judges shall be eligible for office in the district, as follows:

(a) Any Tulare County municipal or justice court judge who does not desire to succeed to office in the district shall file with the county clerk a written statement to that effect by January 1, 1991. Failure to file such a statement is deemed an election by the judge to assert his or her claim to eligibility to office in the district, and he or she shall automatically succeed to office in the district, as further provided in this section.

(b) In the Porterville Division, all judges of the Porterville Municipal Court District shall automatically become judges of the Porterville Division, and shall serve until the election or appointment of their successors.

(c) In the Central Division, the judge of the Woodlake Judicial District shall automatically become the judge of the Central Division, and shall serve until the election or appointment of his or her successor.

(d) In the Visalia Division, all judges of the Visalia Municipal Court District shall automatically become judges of the Visalia Division, and shall serve until the election or appointment of their successors.

(e) In the Tulare-Pixley Division, all judges of the Tulare-Pixley Municipal Court District shall automatically become judges of the Tulare-Pixley Division, and shall serve until the election or appointment of their successors.

(f) In the Dinuba Division, the judge of the Dinuba Judicial District shall automatically become the judge of the Dinuba Division, and shall serve until the election or appointment of his or her successor.

(g) The time for election and qualification of the successor to any judge who becomes a judge of the district pursuant to this section, shall be that previously fixed by law for the election and qualification of the successors for the court and office superseded, had those courts not been superseded, but in no event shall any such election of successors be held within 10 months of succession to office pursuant to this section.

(h) If, after the creation of the Tulare County Municipal Court District and the succession to office of any eligible municipal or justice court judge holding that office upon the creation of the district, a vacancy occurs in any division, the vacancy shall be filled according to otherwise applicable law and not with reference to this section.

74921.2. The board of supervisors may, by ordinance, create new divisions of the Tulare County Municipal Court District and may modify or enlarge the divisions created by this chapter. This section shall not be construed to limit, or be limited by, existing provisions of law conferring authority upon the board of supervisors to revise judicial division boundaries or to consolidate judicial divisions after public hearing before the board of supervisors.

74921.3. For purposes of the qualification and election of judges, the "division" referred to in this chapter is and shall continue to be the "district" referred to in subdivision (b) of Section 16 of Article VI of the Constitution of the State of California.

74921.4. Within each division, even in divisions having only one judge, there shall be a supervising judge.

74921.5. The judges shall, by majority vote, elect one of the judges of the district to serve as presiding judge of the district.

The judges shall, by majority vote, formulate rules and regulations not inconsistent with law or rules and regulations adopted and prescribed by the Judicial Council for transfer of cases, assignment of judges, scheduling of vacation of judges, and other administrative matters such as will promote uniformity of procedures and efficiency and economy in the business of the district. These rules and regulations shall be administered by the municipal court administrator under the supervision and control of the presiding judge of the district. Any rules or regulations adopted pursuant to Section 72002.1 shall be adopted by a majority vote of the judges of the district.

74921.6. The judges of the district shall meet quarterly, and more often if necessary, upon the call in writing of the presiding judge of the district or of any two supervising judges. At the last meeting of each calendar year, the judges shall (a) elect the presiding judge of the district for the next year, commencing January 1; (b) review the business of the district; and (c) make such recommendations to the

board of supervisors and to the Judicial Council as they deem desirable or necessary to promote the administration of justice in the courts of the district.

74921.7. There shall be one clerk of the district, to be known as the municipal court administrator, who shall be appointed by and serve at the pleasure of a majority vote of the judges. The municipal court administrator shall receive a biweekly salary range of 235 in the Tulare County Salary Resolution. He or she shall be the appointing power for those positions listed in Section 74921.10 as being appointed by the municipal court administrator.

74921.8. The municipal court administrator shall be the administrative officer of the district under the control and supervision of the presiding judge of the district. The judges of the district 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 of the district in compliance with personnel rules of the County of Tulare.

(c) To prepare and administer the budget of the district.

(d) To initiate studies and prepare appropriate recommendations and reports to the presiding judge and the judges of the district relating to the business of the district, including, but not limited to, such matters as standardization of forms, procedures, and of classification and compensation of officers and employees.

(e) 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.

(f) To make arrangements for and attend all meetings of the judges, to assist the presiding judge of the district in the preparation of the agenda, and to prepare minutes of the meetings of the judges.

(g) To serve as liaison for the district with other persons, committees, boards, groups, associations, and the County of Tulare as directed by the presiding judge of the district or the judges.

74921.9. There shall be one marshal for each division of the district, who shall receive a biweekly salary set at range 203.

Upon the effective date of this chapter, the marshal of the Porterville Municipal Court District shall continue in office as the marshal of the Porterville Division, the marshal of the Visalia Municipal Court District shall continue in office as the marshal of the Visalia Division, and the marshal of the Tulare-Pixley Municipal Court District shall continue in office as the marshal of the Tulare-Pixley Division, until the expiration of their respective terms. Their successors shall be elected by the electors of the divisions. The judges of the respective divisions shall appoint marshals for the Dinuba Division and the Central Division; or if such an appointment is not made within 30 days after the judge assumes office, the board

of supervisors may provide for the election of a marshal by the electors of the division. Each marshal shall be the appointing power for those positions listed in Section 74921.10 as being appointed by a marshal.

74921.10. The number of positions within each job classification which may be filled by appointment by the municipal court administrator and each marshal are, as follows:

(1) Appointed by the municipal court administrator:

Number	Title	Range
3	Deputy Clerk/Administrator II	186
5	Deputy Clerk/Administrator I	169
10	Court Clerk III	152
1	Collections Worker II	140
16	Court Clerk II	137
11	Court Clerk I	122
3	Account Clerk	122
23	Office Assistant II	118

(2) Appointed by each marshal:

Number	Title	Range
(A) Porterville Division		
3	Deputy Marshals	170
1	Legal Office Assistant II	128
(B) Central Division		
1	Deputy Marshal	170
1	Legal Office Assistant II	128
(C) Visalia Division		
5	Deputy Marshals	170
1	Legal Office Assistant II	128
1	Office Assistant II	118
(D) Tulare-Pixley Division		
3	Deputy Marshals	170
1	Legal Office Assistant II	128
(E) Dinuba Division		
1	Deputy Marshal	170
1	Legal Office Assistant II	128

(3) Each marshal may also appoint as many deputy marshal keepers as may be required by law. The deputy marshal keepers shall be compensated at the fee allowed by law for keeping property.

74921.11. Whenever reference is made to a numbered salary range in any section of this article, the salary schedule found in the salary resolution of Tulare County in effect on January 1, 1990, shall apply.

74922. The then current personnel rules and ordinances of the county shall govern the hiring date; increases within range; salary on promotion, transfer, or demotion; salary on position reclassification, obligations and benefits and discipline of municipal court officers and attachés.

All other matters affecting the employment of such municipal court officers and attachés which are not specifically determined by this article or other provisions of state law shall be governed and regulated by the then current personnel rules, ordinances, and resolutions of the board of supervisors.

74923. In the event the board of supervisors creates any new divisions or modifies any divisions pursuant to Section 74921.1, the number, classification, and compensation of additional municipal court personnel necessitated thereby shall be governed by Article 3 (commencing with Section 71080) of Chapter 6, and Article 4 (commencing with Section 72150) of Chapter 8, of this title.

74924. Trial jurors for each session of the courts of the district shall be selected from persons residing within the divisions within which those sessions are held. Upon adoption of a rule pertaining thereto by the judges, any division may use the same jury panel as that summoned for service in the superior court. When selected from the superior court panel, persons so selected for jury duty in a municipal court division need not be residents of the division.

74925. Notwithstanding Section 72190, a majority of the judges of the district may appoint one commissioner who shall hold office at the pleasure of a majority of the judges. The commissioner shall serve all the divisions by agreement of the judges. The commissioner shall receive a salary of not less than 70 nor more than 80 percent of the salary of a judge of the municipal court. The salary shall be determined by the board of supervisors within this range. The commissioner shall possess the same qualifications as the law requires of a judge of the municipal court and shall not engage in the private practice of law. The commissioner shall be an ex officio deputy clerk of the court and shall receive the same fringe benefits as granted to other attachés of the court.

Membership in the Tulare County Retirement System shall be optional at the election of the commissioner. The commissioner shall make an irrevocable election whether or not to participate in the retirement system no later than 60 days after appointment to the position.

74925.1. 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 chapter, or requires the performance of duties of positions in a class not expressly provided for in this chapter, with the approval of the presiding judge of the court and the board of supervisors, the clerk or the marshal may appoint as many additional attachés or employees as are needed. These additional attachés or employees shall be selected and

appointed in the same manner as those for whom express provision is made, and they shall receive compensation as prescribed in this article, or as prescribed by ordinance or resolution of the board of supervisors for classes not expressly provided for in this article. If, through workload or organizational changes, duties are delegated to certain positions in classes not expressly provided for in this article, with the approval of the presiding judge of the court and the board of supervisors, those positions may be reallocated to different existing classes in the County of Tulare classification plan or allocated to new classes appropriate to the duties being performed. Attachés and employees may continue in those positions, or reallocated positions, only until January 1 of the second year following the year in which the adjustments are made, unless the adjustments are ratified by the Legislature. This section does not affect the application of Section 72150.

74925.2. (a) Notwithstanding Section 72194, each judge of the district may appoint a competent phonographic reporter, to be known as a regular official reporter of the court, and as many pro tempore reporters as are necessary to report the proceedings of the court. Regular official reporters shall hold office during the pleasure of the appointing judge. The duties of regular official reporters appointed pursuant to this section shall be performed as elsewhere provided by law.

(b) The fee for official court reporters for reporting proceedings shall be one hundred thirty-five dollars ($135) per day. All other fees of these reporters shall be as elsewhere provided by law. Where it is necessary to appoint a pro tempore reporter, the pro tempore reporter shall receive the same per diem fee paid regular official reporters of the municipal courts for the days the pro tempore reporter actually is on duty under order of the court. Regular official reporters and pro tempore reporters shall not receive more than one per diem fee per day from the county. Rates of compensation of all regular official reporters and official reporters pro tempore may be adjusted by the board of supervisors. Adjustments in compensation made pursuant to this subdivision shall be effective only until January 1 of the second year following the year in which the adjustments are made, unless ratified by the Legislature.

(c) Regular official reporters may, at the election of each regular official reporter, be members of any retirement system maintained by the county. For retirement credit purposes, compensation earnable shall be deemed to be the annual total of all per diem and transcription fees paid by the county to each regular official reporter up to a maximum of thirty thousand dollars ($30,000) per year. Each new regular official reporter shall make an election within 60 days of his or her appointment as a regular official reporter. The election shall be an irrevocable decision not subject to later withdrawal, change, or modification.

74926. Upon the effective date of this chapter, an incumbent officer or attaché of a superseded justice or municipal court shall be

placed on the step level of the salary schedule made applicable to his or her position which pays the same rate of compensation as he or she received as an officer or attaché of the superseded justice or municipal court; or, if there is no equivalent salary in the salary schedule, he or she shall be placed in the step level having a rate of compensation next higher than his or her former salary.

74926.5. The officers and attachés of the municipal courts, except regular official reporters and reporters pro tempore, shall be entitled to the same vacation, sick leave, leave of absence, and similar benefits and privileges as are provided for the employees of the County of Tulare under ordinances and resolutions of the board of supervisors in effect on January 1, 1991.

74926.6. Except for deputy marshal keepers, all fees collected by the marshals or their deputies for services to the municipal court shall be deposited with the county treasurer.

74926.7. All officers and attachés of the municipal court shall devote their full time to the performance of their duties.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 657

An act to amend Sections 2924 and 2924c of the Civil Code, relating to secured obligations.

[Approved by Governor September 8, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 2924 of the Civil Code is amended to read:

2924. Every transfer of an interest in property, other than in trust, made only as a security for the performance of another act, is to be deemed a mortgage, except when in the case of personal property it is accompanied by actual change of possession, in which case it is to be deemed a pledge. Where, by a mortgage created after July 27, 1917, of any estate in real property, other than an estate at will or for years, less than two, or in any transfer in trust made after July 27, 1917, of a like estate to secure the performance of an obligation, a power of sale is conferred upon the mortgagee, trustee, or any other person, to be exercised after a breach of the obligation for which that mortgage or transfer is a security, the power shall not

be exercised except where the mortgage or transfer is made pursuant to an order, judgment, or decree of a court of record, or to secure the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations, or is made by a public utility subject to the provisions of the Public Utilities Act, until (a) the trustee, mortgagee, or beneficiary, shall first file for record, in the office of the recorder of each county wherein the mortgaged or trust property or some part or parcel thereof is situated, a notice of default, identifying the mortgage or deed of trust by stating the name or names of the trustor or trustors and giving the book and page where the same is recorded or a description of the mortgaged or trust property and containing a statement that a breach of the obligation for which the mortgage or transfer in trust is security has occurred, and setting forth the nature of each breach actually known to the beneficiary and of his or her election to sell or cause to be sold the property to satisfy that obligation and any other obligation secured by the deed of trust or mortgage which is in default, and where the default is curable pursuant to Section 2924c, containing the statement specified in paragraph (1) of subdivision (b) of Section 2924c; (b) not less than three months shall thereafter elapse; and (c) after the lapse of the three months the mortgagee, trustee or other person authorized to take the sale shall give notice of sale, stating the time and place thereof, in the manner and for a time not less than that set forth in Section 2924f. A recital in the deed executed pursuant to the power of sale of compliance with all requirements of law regarding the mailing of copies of notices or the publication of a copy of the notice of default or the personal delivery of the copy of the notice of default or the posting of copies of the notice of sale or the publication of a copy thereof shall constitute prima facie evidence of compliance with these requirements and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value and without notice. There is a rebuttable presumption that the beneficiary actually knew of all unpaid loan payments on the obligation owed to the beneficiary and secured by the deed of trust or mortgage subject to the notice of default. However, the failure to include an actually known default shall not invalidate the notice of sale and the beneficiary shall not be precluded from asserting a claim to this omitted default or defaults in a separate notice of default.

SEC. 2. Section 2924c of the Civil Code is amended to read:

2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property or an estate for years therein hereafter executed has, prior to the maturity date fixed in that obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of that obligation or of the deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of

that obligation or of the deed of trust or mortgage, the trustor or mortgagor or his or her successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within the period specified in subdivision (e), if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount due, at the time payment is tendered, with respect to (A) all amounts of principal, interest, taxes, assessments, insurance premiums, or advances actually known by the beneficiary to be, and that are, in default and shown in the notice of default, under the terms of the deed of trust or mortgage and the obligation secured thereby, (B) all amounts in default on recurring obligations not shown in the notice of default, and (C) all reasonable costs and expenses, subject to subdivision (c), which are actually incurred in enforcing the terms of the obligation, deed of trust or mortgage, and trustee's or attorney's fees, subject to subdivision (d), other than the portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if the acceleration had not occurred. This section does not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the Public Utilities Code. For the purposes of this subdivision, the term "recurring obligation" means all amounts of principal and interest on the loan, or rents, subject to the deed of trust or mortgage in default due after the notice of default is recorded; all amounts of principal and interest or rents advanced on senior liens or leaseholds which are advanced after the recordation of the notice of default; and payments of taxes, assessments, and hazard insurance advanced after recordation of the notice of default.

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

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

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

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

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

This amount is _____ as of _____,
(Date)

and will increase until your account becomes current.

While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the note and deed of trust or mortgage, the beneficiary or mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the beneficiary or mortgagee may require as a condition to reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

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

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor

permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

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

_____

(Name of beneficiary or mortgagee)

_____

(Mailing address)

_____

(Telephone)

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

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

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

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

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of the contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or the assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (c) of Section 2924b shall be in English.

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

(c) Costs and expenses which may be charged pursuant to Sections 2924 to 2924i, inclusive, shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by

Sections 2924 to 2924i, inclusive, postponement upon the written request of the trustor pursuant to Section 2924g made to either the beneficiary or trustee not to exceed fifty dollars ($50) per postponement and a fee for a trustee's sale guarantee or, in the event of judicial foreclosure, a litigation guarantee.

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

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

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

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

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

Pursuant to the terms of this subdivision, no beneficiary, trustee, mortgagee, or their agents or successors shall be liable in any manner

to a trustor, mortgagor, their agents or successors for the failure to allow a reinstatement of the obligation secured by a deed of trust or mortgage during the period of five business days prior to the sale of the security property, and no such right of reinstatement during this period is created by this section. Any right of reinstatement created by this section is terminated five business days prior to the date of sale set forth in the initial date of sale, and is revived only as prescribed herein and only as of the date set forth herein.

As used in this subdivision, the term "business day" has the same meaning as specified in Section 9.

SEC. 3. It is the intent of the Legislature in enacting this act to supersede the holding in Anderson v. Heart Federal Savings, 208 Cal. App. 3d 202, to the extent that decision restricted the ability of mortgagees and beneficiaries under trust deeds to demand payment of all amounts in default under the terms of an obligation secured by a mortgage or trust deed as a condition to reinstatement of the obligation and avoidance of a sale of the security property to satisfy the obligation.

CHAPTER 658

An act to add Sections 45139 and 88038 to the Education Code, and to amend Sections 20009.1, 20011.1, 20013, 20017.95, 20019, 20020.8, 20022, 20332, 20336, 20586, 20590, 20862.5, 20930.4, 20950.1, 21022.2, 21024, 21025, 21025.4, 21025.5, 21028, 21029, 21263.4, 21263.5, 21266, 21267.53, 21382.2, 21382.4, 22810.2 of, to add Sections 20019.6, 20019.53, 20803.21, 20819, and 22827.5 to, and to repeal Sections 20651, 20802.5, and 21252.4 of, the Government Code, relating to the Public Employees' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1990 Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 45139 is added to the Education Code, to read:

45139. Notwithstanding any other provision of this part, the governing board of a school district or county superintendent of schools may establish regulations which allow their classified employees to reduce their workload from full-time to part-time duties.

The regulations shall include, but shall not be limited to, the following, if classified employees wish to reduce their workload and maintain retirement benefits pursuant to Section 20819 of the Government Code:

(a) The classified employee shall have reached the age of 55 prior

to reduction in workload.

(b) The classified employee shall have been employed full time in a classified position for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the classified employee shall have been employed full time in a classified position for a total of at least five years without a break in service.

(d) The option of part-time employment shall be exercised at the request of the classified employee and can be revoked only with the mutual consent of the employer and the classified employee.

(e) The classified employee shall be paid a salary which is the pro rata share of the salary he or she would be earning had he or she not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he or she makes the payments that would be required if he or she remained in full-time employment.

The classified employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time classified employee.

(f) The minimum part-time employment shall be the equivalent to one-half of the number of hours of service required by the classified employee's contract of employment during his or her final year of service in a full-time classified position.

(g) The period of the part-time classified employment shall not exceed five years.

(h) The period of the part-time classified employment shall not extend beyond the end of the school year during which the classified employee reaches his or her 70th birthday.

SEC. 2. Section 88038 is added to the Education Code, to read:

88038. Notwithstanding any other provision of this part, the governing board of a community college district may establish regulations which allow their classified employees to reduce their workload from full-time to part-time duties.

The regulations shall include, but shall not be limited to, the following, if classified employees wish to reduce their workload and maintain retirement benefits pursuant to Section 20819 of the Government Code:

(a) The classified employee shall have reached the age of 55 prior to reduction in workload.

(b) The classified employee shall have been employed full time in a classified position for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the classified employee shall have been employed full time in a classified position for a total of at least five years without a break in service.

(d) The option of part-time employment shall be exercised at the request of the classified employee and can be revoked only with the

mutual consent of the employer and the classified employee.

(e) The classified employee shall be paid a salary which is the pro rata share of the salary he or she would be earning had he or she not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he or she makes the payments that would be required if he or she remained in full-time classified employment.

The classified employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time classified employee.

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the classified employee's contract of employment during his or her final year of service in a full-time classified position.

(g) The period of the part-time classified employment shall not exceed five years.

(h) The period of the part-time classified employment shall not extend beyond the end of the school year during which the classified employee reaches his or her 70th birthday.

SEC. 3. Section 20009.1 of the Government Code is amended to read:

20009.1. "Public agency" also includes the following:

(a) The Commandant, Veterans Home of California, with respect to employees of the post exchange and other post fund activities whose compensation is paid from the post fund of the Veterans Home of California.

(b) Any foundation or trust established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20009.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of the Public Employees' Retirement System or the State Teachers' Retirement System, and their immediate families, and

employees of any such credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of the Public Employees' Retirement System or the State Teachers' Retirement System. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All such payments made by the credit union which are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of the system. For purposes of this subdivision, a credit union shall not be deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 4 (commencing with Section 20450) of this part prior to January 1, 1988. After January 1, 1988, the board shall not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools which was a contracting agency on July 1, 1983, and any school district or community college district which was a contracting agency with respect to local policemen, as defined in Section 20020.8, on July 1, 1983.

(i) Any school district or community college district which has established a police department, pursuant to Section 39670 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20019.6.

SEC. 4. Section 20011.1 of the Government Code is amended to read:

20011.1. "School employer" means a county superintendent of schools, other than the Los Angeles County Superintendent of Schools and the San Diego County Superintendent of Schools, which has entered into a contract with the board pursuant to Chapter 4.5 (commencing with Section 20580) and any school district or community college district which was a contracting agency on July 1, 1983, excluding that portion of a contract with the Los Angeles City Unified School District and the Los Angeles Community College District that pertains to local policemen, as defined in Section 20020.8, on July 1, 1983, and excluding a school district or a community college district, as defined in subdivision (i) of Section 20009.1, which entered into a contract with the board on or after January 1, 1990, and whose employees are school safety members, as defined in Section 20019.6.

SEC. 5. Section 20013 of the Government Code is amended to read:

20013. (a) "Member" means an employee who has qualified for membership in the Public Employees' Retirement System and on whose behalf an employer has become obligated to pay contributions.

(b) "State member" includes:

(1) State miscellaneous members.

(2) University members.
(3) Patrol members.
(4) State safety members.
(5) State industrial members.
(6) State peace officer/firefighter members.
(c) "Local member" includes:
(1) Local miscellaneous members.
(2) Local safety members.
(d) "School member" includes all employees within the jurisdiction of a school employer, other than local policemen and school safety members.

SEC. 6. Section 20017.95 of the Government Code is amended to read:

20017.95. "State peace officer/firefighter member" means:

(a) All persons in the Board of Prison Terms, the Department of Consumer Affairs, the Department of Developmental Services, the Department of Health Services, the Horse Racing Board, the Department of Industrial Relations, the Department of Insurance, the Department of Mental Health, the Department of Motor Vehicles, the Department of Social Services employed 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) which have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons in the Department of Alcoholic Beverage Control employed with the class title Investigator Trainee, Alcohol Beverage Control (Class Code 7553), Investigator I, Alcohol Beverage Control, range A and B (Class Code 7554), and Investigator II, Alcohol Beverage Control (Class Code 7555) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(c) All persons within the Department of Justice who are state employees as defined in subdivision (c) of Section 3513 and who have been designated as peace officers and performing investigative duties.

(d) All persons in the Department of Parks and Recreation employed with the class title of Park Ranger (Intermittent) (Class Code 0984) which have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and normal rate of contribution applicable prior to the effective date of this section by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

SEC. 7. Section 20019 of the Government Code is amended to read:

20019. "Local safety member" includes all local policemen, firemen, safety officers, county peace officers, and school safety members, employed by a contracting agency who have by contract been included within this system.

SEC. 8. Section 20019.6 is added to the Government Code, to read:

20019.6. "School safety member" includes any officer or employee of a school district or a community college district which has established a police department pursuant to Section 39670 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though such a person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement.

This section shall only apply to a school district or a community college district which, pursuant to subdivision (i) of Section 20009.1, entered into a contract with the board on or after January 1, 1990.

SEC. 9. Section 20019.53 is added to the Government Code, to read:

20019.53. A member employed with a school district or community college district, as defined in subdivision (i) of Section 20009.1, who is in a position which qualifies as a school safety member, and made subject to a safety service retirement benefit other than that provided in Section 21252.01, may make an irrevocable election in writing, to remain subject to the miscellaneous service retirement benefit by filing a notice of that election with the board within 90 days after notification by the board.

SEC. 10. Section 20020.8 of the Government Code is amended to read:

20020.8. "Local policeman" also includes any officer or employee of a school district or a community college district which has established a police department pursuant to Section 39670 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though such a person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement.

This section shall only apply to any school district or community college district which prior to June 30, 1982, had amended its contract to provide membership for local policemen.

SEC. 11. 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 deductions from salaries of employees who have opted into a flexible benefits program; (11) temporary industrial disability payments pursuant to Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6 of Division 5 of Title 2; and (12) 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 unused vacation, sick leave, or compensating time off, whether paid in lump sum or otherwise; (8) final settlement pay; (9) payments for overtime, including pay in lieu of vacation or holiday; (10) 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; (11) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; (12) 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; (13) 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; (14) payments made by employers to or on behalf of their employees who have elected to be covered by a flexible benefits program, where those payments reflect amounts that exceed their employees' salaries; and (15) any other payments the board may determine not to be compensation.

For purposes of this subdivision, "final settlement pay" means any pay in excess of salary granted or awarded in connection with a separation from employment, including severance pay, bonuses, retroactive adjustments to salary, payment of the value of retroactive adjustment to benefits, and any other grant or award that the board may determine is "final settlement pay."

(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, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 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. 13. Section 20332 of the Government Code is amended to read:

20332. Persons who are members of any other retirement or pension system supported wholly or in part by funds of the United

States government, any state government or political subdivision thereof and who are receiving credit in such other system for service are, as to such service, excluded from this system.

For the purpose of this section, persons who merely are receiving pensions or retirement allowances, or other payments, from any source whatever, on account of service rendered to an employer other than the state and while they were not in state service, are not, because of such receipt, members of any other retirement or pension system.

For the purposes of this section only, persons who merely participate 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 established pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, are not, because of such participation, members of any other retirement or pension system.

For the purposes of this section only, persons who participate in a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 401(a)), are not, because of that participation, members of any other retirement or pension system, so long as the contracting agency has received a ruling from the Internal Revenue Service stating that the money purchase pension plan and trust qualifies under Section 401(a) and furnishes proof thereof upon request by the Board of Administration.

SEC. 14. Section 20336 of the Government Code is amended to read:

20336. A person in employment which, in the opinion of the board, is on a seasonal, limited-term, on-call, emergency, intermittent, substitute, or other irregular basis is excluded from membership unless the employment is compensated and meets one of the following conditions:

(a) The appointment or employment contract fixes a term of full-time, continuous employment in excess of six months or, if a term is not fixed, full-time employment continues for longer than six months, in which case membership shall be effective not later than the first day of the seventh month of employment.

(b) The person is employed in one of the positions which provide state safety membership in accordance with Section 20017.6.

(c) The person is a member at the time of entering such employment.

(d) The person works more than 125 days, if employed on a per diem basis or, if employed on other than a per diem basis, 1,000 hours within the fiscal year, in which case membership shall be effective not later than the first day of the month following the month in which 125 days or 1,000 hours of service were completed.

(e) The person is employed by the Department of Forestry and Fire Protection in one of the positions which provide state peace officer/firefighter membership in accordance with Section 20017.96.

This section shall supersede any contract provision excluding persons in any temporary or seasonal employment basis and shall apply only to persons entering employment on and after January 1, 1975. Except as provided in Section 20492, no contract or contract amendment entered into after January 1, 1981, shall contain any provision excluding persons on an irregular employment basis.

SEC. 15. Section 20586 of the Government Code is amended to read:

20586. Notwithstanding any other provisions of this part, when any county superintendent of schools determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the county superintendent of schools would be served, a school member shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is employed in a job classification or an organizational unit designated by the county superintendent of schools and retires within any period designated in and subsequent to the effective date of the contract amendment provided the period is not less than 90 days nor more than 180 days.

(b) The county superintendent of schools transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount he or she would have received without such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The county superintendent of schools shall certify that he or she is electing to exercise the provisions of this section, because of impending mandatory transfers, demotions, and layoffs that constitute at least 1 percent of the job classification, as designated by the county superintendent of schools, resulting from the curtailment of, or change in the manner of performing, its services.

(d) The county superintendent of schools shall certify that it is his or her intention at the time that this section is made operative that if any early retirements are granted after receipt of service credit pursuant to this section, that the retirements will either: (1) result in a net savings to the district or county superintendent of schools, or (2) result in an overall reduction in the work force of the organizational unit.

The amount of service credit shall not be more than two years regardless of credited service and shall not exceed the number of years intervening between the date of his or her retirement and the date he or she would be required to be retired because of age.

A county superintendent of schools which elects to make the payment prescribed by subdivision (b) shall make such payment with respect to all eligible employees who retire during the specified period.

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance

payments during the specified period.

Any member who qualifies under this section, upon subsequent reentry to the system shall forfeit the service credit acquired under this section.

This section shall not apply to any member who is not employed by the county superintendent of schools during the period designated in subdivision (a) and who has less than five years of service credit.

This section shall not apply to any county superintendent of schools unless and until the county superintendent of schools elects to be subject to the provision of this section by amendment to the contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after the effective date of this section, by express provision in such contract making the county superintendent of schools subject to the provisions of this section.

Notwithstanding Section 20740, an election to become subject to this section shall not exclude a county superintendent of schools from the definition of "employer" for purposes of Section 20740.

This section shall remain in effect only until September 29, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date deletes or extends that date.

SEC. 16. Section 20590 of the Government Code is amended to read:

20590. The assets and liabilities arising out of contracts with school employers, as defined in Section 20011.1, shall be merged, excluding that portion of a contract with respect to local policemen, as defined in Section 20020.8 and those contracts with school districts or community college districts, as defined in subdivision (i) of Section 20009.1, which employ school safety members, as defined in Section 20019.6. Employer accumulated contributions credited to such entities on the effective date of this section, and all such contributions paid by a school employer, as defined in Section 20011.1, after the effective date of this section, shall be held exclusively for the benefit of school members, as defined in Section 20013(d), retired school members, and their beneficiaries.

A person who is a member under a contract between the board and such school districts or community college districts prior to July 1, 1983, shall not be denied any right extended to him or her by reason of such membership.

SEC. 17. Section 20651 of the Government Code is repealed.

SEC. 18. Section 20802.5 of the Government Code is repealed.

SEC. 19. Section 20803.21 is added to the Government Code, to read:

20803.21. "School safety service" includes service rendered as a school safety member in employment with a school district or community college district, as defined in subdivision (i) of Section 20009.1.

SEC. 20. Section 20819 is added to the Government Code, to read:

20819. Notwithstanding any other provision of this part, a school member employed on a part-time basis on and after January 1, 1991, shall, for that period of part-time employment, receive the credit he or she would receive if he or she was employed on a full-time basis and shall have his or her retirement allowance, as well as any other benefits he or she is entitled to under this part, based upon the salary that he or she would have received if employed on a full-time basis if he or she and his or her employer both contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. Prior to the reduction of a classified employee's workload under this section, the school employer personnel responsible for the administration of this program shall verify the eligibility of the applicant for the reduced workload program. This section shall be applicable only to school members who are classified employees of school employers or community college districts and who have met the criteria provided in Sections 45139 and 88038 of the Education Code.

The employer shall maintain the necessary records to separately identify each classified employee receiving credit pursuant to this section.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in combination, offer the actuary's best estimate of anticipated experience under the system.

The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

SEC. 21. Section 20862.5 of the Government Code is amended to read:

20862.5. A state, school, or school safety member, whose effective date of retirement is within four months of separation from employment with the employer subject to this section which granted the sick leave credit, shall be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by such employer.

Until receipt of certification from an employer concerning unused sick leave, the board may pay an estimated allowance pursuant to this section. At the time of receipt of such certification, the allowance shall be adjusted to reflect any necessary changes.

Notwithstanding provisions of this part subjecting local miscellaneous members to provisions applicable to state miscellaneous members, this section shall not apply to local members

other than local miscellaneous members employed before July 1, 1980, by a school district which is a contracting agency or those school safety members employed before July 1, 1980, by a contracting agency which is a school district or community college district, as defined in subdivision (i) of Section 20009.1.

This section shall not be applicable to any person who becomes a school member on and after July 1, 1980, and any person who becomes a local member employed, on and after July 1, 1980, by a school district which is a contracting agency whether or not such person was ever a school member or local member prior to such date.

SEC. 22. Section 20930.4 of the Government Code is amended to read:

20930.4. "Public service" also means service in temporary, seasonal, limited term, oncall, emergency, intermittent, substitute, or other irregular employment such that a person is excluded from membership.

SEC. 23. Section 20950.1 of the Government Code is amended to read:

20950.1. (a) A state member who became subject to the Second Tier upon election or upon membership in the Second Tier on or after January 1, 1985, shall be retired for service upon his or her written application to the board if he or she has attained age 55 and is credited with 10 years of state service.

(b) A state member who elected coverage under Section 21251.13 for service rendered on or after the effective date of the election, as authorized by subdivision (c) of Section 20013.7 during the period between November 1, 1988, and October 31, 1989, and who would otherwise be subject to Section 21251.146 or 21251.147, shall be retired for service upon his or her written application to the board if he or she has attained age 50 and is credited with five years of state service.

(c) Notwithstanding subdivision (a) or (b), a state member in the Second Tier who is credited with five years of state service prior to January 1, 1985, may retire with less than 10 years of state service upon his or her written application to the board if he or she has attained age 50.

SEC. 24. Section 21022.2 of the Government Code is amended to read:

21022.2. "Member" for purposes of Section 21022 also includes state miscellaneous members employed by the Department of Justice who perform the duties now performed in positions with the class title of criminalist, ranges A, B, and C (Class Code 8466), or senior criminalists (Class Code 8478), or criminalist supervisor (Class Code 8477), or criminalist manager (Class Code 8467), latent print analyst I (Class Code 8460), latent print analyst II (Class Code 8472), or latent print supervisor (Class Code 8473), and state miscellaneous members employed by the Department of California Highway Patrol who perform the duties now performed in positions with the class title of communications operator I (Class Code 1663),

communications operator II (Class Code 1664), communications supervisor (Class Code 1662), or communications supervisor II (Class Code 1665).

SEC. 25. Section 21024 of the Government Code is amended to read:

21024. The application shall be made only (a) while the member is in state service, or (b) while the member for whom contributions will be made under Section 20894.5, is absent on military service, or (c) within four months after the discontinuance of the state service of the member, or while on an approved leave of absence, or (d) while the member is physically or mentally incapacitated to perform duties from the date of discontinuance of state service to the time of application or motion. On receipt of an application for disability retirement of a member, other than a local safety member with the exception of a school safety member, the board shall, or of its own motion it may, order a medical examination of a member who is otherwise eligible to retire for disability to determine whether the member is incapacitated for the performance of duty. On receipt of such application with respect to a local safety member other than a school safety member, the board shall request the governing body of the contracting agency employing such member to make such determination.

SEC. 26. Section 21025 of the Government Code is amended to read:

21025. If the medical examination and other available information show to the satisfaction of the board, or in case of a local safety member, other than a school safety member, the governing body of the contracting agency employing such member, that the member is incapacitated physically or mentally for the performance of his or her duties in the state service and is eligible to retire for disability, the board shall forthwith retire him or her for disability, unless the member is qualified to be retired for service and applies therefor prior to the effective date of his or her retirement for disability or within 30 days after the member is notified of his or her eligibility for retirement on account of disability, in which event the board shall retire the member for service. The governing body of a contracting agency upon receipt of the request of the board pursuant to Section 21024 shall certify to the board its determination under this section that the member is or is not so incapacitated.

SEC. 27. Section 21025.4 of the Government Code is amended to read:

21025.4. Notwithstanding any other provision of this article, the retirement for disability of a local safety member, other than a school safety member, shall not be effective without the member's consent earlier than the date upon which leave of absence without loss of salary under Section 4850 of the Labor Code because of such disability terminates, or the earlier date during such leave as of which such disability is permanent and stationary as found by the Workmen's Compensation Appeals Board.

SEC. 28. Section 21025.5 of the Government Code is amended to read:

21025.5. Notwithstanding any other provision of this article, the retirement for disability of a member, other than a local safety member, with the exception of a school safety member, who has been granted or is entitled to a leave of absence with compensation, which shall include nonindustrial disability insurance benefits payable pursuant to Chapter 3.6 (commencing with Section 18135) of Part 1 of this division, shall not become effective prior to the expiration of such leave of absence with compensation, unless the member applies for or consents to his retirement as of an earlier date.

SEC. 29. Section 21028 of the Government Code is amended to read:

21028. The board, or in case of a local safety member, other than a school safety member, the governing body of the employer from whose employment the person was retired, may require any recipient of a disability retirement allowance under the minimum age for voluntary retirement for service applicable to members of his or her class to undergo medical examination, and upon his or her application for reinstatement, shall cause a medical examination to be made of any such recipient who is at least six months less than the age of compulsory retirement for service applicable to members of the class or category in which it is proposed to employ him or her. The board, or in case of a local safety member, other than a school safety member, the governing body of the employer from whose employment the person was retired, shall also cause such examination to be made upon application for reinstatement to the position held at retirement or any position in the same class, of a person who was incapacitated for performance of duty in such a position at the time of a prior reinstatement to another position. The examination shall be made by a physician or surgeon, appointed by the board or the governing body of the employer, at the place of residence of the recipient or other place mutually agreed upon. Upon the basis of the examination, the board or the governing body shall determine whether he or she is still incapacitated, physically or mentally, for duty in the state agency, the university, or contracting agency, where he or she was employed and in the position held by him or her when retired for disability, or in a position in the same classification, and for the duties of the position with regard to which he or she has applied for reinstatement from retirement.

SEC. 30. Section 21029 of the Government Code is amended to read:

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

retirement system.

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

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

SEC. 31. Section 21252.4 of the Government Code is repealed.

SEC. 32. Section 21263.4 of the Government Code is amended to read:

21263.4. Upon the death, after the effective date of retirement, of a state miscellaneous member none of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1974, or of a school member or school safety member none of whose service rendered in school service or school safety service has been included in the federal system and whose retirement is effective on or after July 1, 1983, a monthly allowance derived from employer contributions equal to 50 percent of the amount of his or her retirement allowance as it was at his or her death and based on service credited to him or her as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions of the member shall be paid to the surviving spouse throughout life or until remarriage. If there be no surviving spouse, or upon the death or remarriage of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases. If at the time of the retired member's death there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If on the effective date of retirement there is a person who will be eligible if the person survives, the member's election of an optional settlement other than optional settlement 1 shall apply only to a portion of his or her allowance as provided in

Section 21330 with respect to allowances under Section 21263. If on the effective date of his or her retirement the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his or her retirement and ending on the date of his or her death.

SEC. 33. Section 21263.5 of the Government Code is amended to read:

21263.5. Upon death after the effective date of retirement of a state miscellaneous member some of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1975, or of a school member or school safety member some of whose service rendered in school employment has been included in the federal system and whose retirement is effective on or after July 1, 1983, a monthly allowance, derived from employer contributions, equal to a percentage of the amount of his or her retirement allowance as it was at his or her death based on service credited to him or her as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions of the member shall be paid to the surviving spouse throughout life or until remarriage. The percentage shall be 25 percent for an allowance based on service which was also covered under the federal system and 50 percent for an allowance based on any other service, except that the percentage shall be 50 percent for the allowance of a member whose service was subject to Section 21251.146 or 21251.147 and who had become a member prior to November 1, 1988. If there is no surviving spouse, or upon the death or remarriage of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases. If at the time of the retired member's death there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If on the effective date of retirement there is a person who will be eligible if the person survives, the member's election of an optional settlement, other than optional settlement 1, shall apply only to a portion of the allowance as provided in Section 21330 with respect to allowances under Section 21263. If on the effective date of his or her retirement the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse" for purposes of this section means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his or her retirement and ending

on the date of his or her death.

SEC. 34. Section 21266 of the Government Code is amended to read:

21266. Notwithstanding any other provisions of this part, survivor continuance allowances payable to surviving spouses upon death after retirement of a member shall not cease upon remarriage if the remarriage occurs on or after January 1, 1985. However, pursuant to Section 22811.5, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

This section shall not apply to any contracting agency, other than those contracting agencies which are school districts or community college districts, as defined in subdivision (i) of Section 20009.1, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after January 1, 1985, by express provision in the contract making the contracting agency subject to this section and, in that case, this section shall only apply to a surviving spouse of a local member employed by the contracting agency whose remarriage occurred on or after the date the contracting agency elects to be subject to this section.

The employer is not required by this section to meet and confer with an employee organization regarding the subject matter of this section, and the subject matter shall not be included within the scope of representation pursuant to Section 3504.

SEC. 35. Section 21367.53 of the Government Code is amended to read:

21367.53. In lieu of benefits provided by Section 21367.51, upon the death of any person, after retirement and while receiving a retirement allowance from this system, there shall be paid to his or her estate, or to the beneficiary who he or she shall nominate by written designation duly executed and filed with the board, the sum of six hundred dollars ($600), to be provided from contributions by the state.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the system.

The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost and (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

This section shall apply to members employed by a school employer.

This section shall not apply to any contracting agency, except for those contracting agencies which are school employers and those school districts or community college districts, as defined in subdivision (i) of Section 20009.1, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after January 1, 1981, by express provision in the contract making the contracting agency subject to this section.

SEC. 36. Section 21382.2 of the Government Code is amended to read:

21382.2. (a) In lieu of benefits provided in Section 21382, if the death benefit provided by Section 21361 is payable on account of a state member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made, in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A widow or a widower who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid four hundred fifty dollars ($450) if there is one such child or five hundred thirty-eight dollars ($538) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of two hundred twenty-five dollars ($225) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age

or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid two hundred twenty-five dollars ($225) per month.

(B) If there are two children, the children shall be paid four hundred fifty dollars ($450) per month divided equally between them.

(C) If there are three or more children, the children shall be paid five hundred thirty-eight dollars ($538) per month divided equally among them.

(3) A widow or a widower who has attained or attains the age of 62 years and, with respect to both widow and widower, who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid two hundred twenty-five dollars ($225) per month. No allowance shall be paid under this paragraph, while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be eighty-eight dollars ($88) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if such surviving spouse dies or remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach age 22, each of the member's dependent parents who has attained or attains the age of 62, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars ($225) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(d) This section shall apply to beneficiaries receiving 1959 survivor allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975.

(e) This section shall apply, with respect to benefits payable on and after July 1, 1981, to all members employed by a school employer, and school safety members employed with a school district or community college district as defined in subdivision (i) of Section 20009.1, except that it shall not apply, without contract amendment, with respect to safety members who became members after July 1, 1981. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of all miscellaneous members employed by a school employer and all safety members who are members on July 1, 1981.

A contracting agency may, by amending its contract, elect to make this section applicable to local members employed by the agency.

SEC. 37. Section 21382.4 of the Government Code is amended to read:

21382.4. (a) In lieu of benefits provided in Section 21382 or Section 21382.2, if the death benefit provided by Section 21361 is payable on account of a state member's death which occurs under circumstances other than those described in paragraph (5) of subdivision (a) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A widow or a widower who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars ($700) per month if there is one such child, or eight hundred forty dollars ($840) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of three hundred fifty dollars ($350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred fifty dollars ($350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars ($700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars ($840) per month divided equally among them.

(3) A widow or a widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid three hundred fifty dollars ($350) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars ($140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies or remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid three hundred fifty dollars ($350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members whose death occurred before January 1, 1985. Where a surviving spouse attained age 62 prior to January 1, 1987, entitlement shall exist retroactive to January 1, 1985, or to his or her 62nd birthday, whichever is later. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund, an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member, except as provided in subdivision (i), occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5, or authorized by the Director of Personnel Administration for classifications of state employees who are excluded from, or not subject to, collective bargaining. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on

and after January 1, 1985, to school members and to school safety members, as defined in Section 20019.6, except that it shall not apply, without contract amendment, with respect to safety members who became members after January 1, 1985. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency which, by amending its contract, first elects effective on or after January 1, 1985, to make this article applicable to local members employed by the agency. On and after January 1, 1985, contracting agencies already subject to Section 21382 or Section 21382.2 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency which is subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency which is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency which is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(i) This section shall not apply to beneficiaries with respect to the death of a state member employed by the California State University occurring on or after January 1, 1988, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining. 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. 38. Section 22810.2 of the Government Code is amended to read:

22810.2. (a) Due to the required administrative services necessary for the implementation of Section 22810.1, the Public Employees' Retirement System is authorized to administratively establish the necessary limited-term positions through the normal budgetary process for the 1990–91 fiscal year. Permanent positions

shall also be sought through the normal budgetary process.

(b) There is hereby appropriated from the Public Employees' Contingency Reserve Fund to the Public Employees' Retirement System: for the 1989–90 fiscal year, the sum of seventy-five thousand dollars ($75,000), for salary and benefits, equipment, and other operating costs.

(c) The board may charge each annuitant who elects to receive the benefits as provided by Section 22810.1 a one-time setup charge and a monthly maintenance charge, in amounts sufficient to ensure the ongoing support of the program.

SEC. 39. Section 22827.5 of the Government Code is amended to read:

22827.5. All moneys received pursuant to Sections 22810.1 and 22810.2 shall be deposited in the Public Employees' Contingency Reserve Fund. The board may transfer the complementary annuitant premiums into the Public Employees' Retirement Fund. The moneys in the fund are, notwithstanding Section 13340, continuously appropriated to the board, without regard to fiscal years, for payment of the complementary annuitant premiums and administrative expenses.

SEC. 40. 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 41. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 administration of Chapter 404 of the Statutes of 1989 may be implemented at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 659

An act to amend Section 25163 of, and to add Section 25323.6 to, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 9, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 25163 of the Health and Safety Code is amended to read:

25163. (a) (1) Except as otherwise provided in subdivisions (b), (c), and (f), it is unlawful for any person to carry on, or engage in, the transportation of hazardous wastes, unless the person holds a valid registration issued by the department, and it shall be unlawful for any person to transfer custody of a hazardous waste to a transporter who does not hold a valid registration issued by the department. A person who holds a valid registration issued by the department pursuant to this section is a registered hazardous waste hauler, for purposes of this chapter. Any registration issued by the department to a transporter of hazardous waste is not transferable from the person to whom it was issued to any other person.

(2) Any person who transports hazardous waste in a vehicle shall have a valid registration issued by the department in his or her possession while transporting the hazardous waste. The registration certificate shall be shown upon demand to any representative of the department, officer of the California Highway Patrol, any local health officer, or any public officer designated by the department. Any person registered pursuant to this section may obtain additional copies of the registration from the department upon the payment of a fee of two dollars ($2) for each copy requested, in accordance with Section 12196 of the Government Code.

(3) Commencing January 1, 1986, the hazardous waste information required and collected for registration pursuant to this subdivision shall be recorded and maintained in the management information system operated by the Department of the California Highway Patrol.

(b) Persons transporting only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or the health officer's authorized representative pursuant to Chapter 6 (commencing with Section 25000) are exempt from the requirements of subdivision (a).

(c) Persons transporting hazardous wastes to a permitted hazardous waste facility for transfer, treatment, recycling, or disposal, which wastes do not exceed a total volume of five gallons or do not exceed a total weight of 50 pounds, are exempt from the

requirements of subdivisions (a) and (e) and from the requirements of Section 25160 concerning possession of the manifest while transporting hazardous waste, upon meeting all of the following conditions:

(1) The hazardous wastes are transported in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during the transporting.

(2) Different hazardous waste materials are not mixed within a container during the transporting.

(3) If the hazardous waste is extremely hazardous waste or acutely hazardous waste, the extremely hazardous waste or acutely hazardous waste was not generated in the course of any business, and is not more than 2.2 pounds.

(4) The person transporting the hazardous waste is the producer of that hazardous waste, and the person produces no more than 100 kilograms of hazardous waste in any month.

(5) The person transporting the hazardous waste does not accumulate more than a total of 1,000 kilograms of hazardous waste onsite at any one time.

(d) Any person registered as a hazardous waste hauler pursuant to subdivision (a) is not subject to the registration requirements of Chapter 6 (commencing with Section 25000), but shall comply with the terms, conditions, orders, and directions as the health officer or the health officer's authorized representative may deem necessary for the protection of human health and comfort, and shall otherwise comply with the requirements for statements as provided in Section 25007. Violations of those requirements of Section 25007 shall be punished as provided in Section 25010. Proof of registration pursuant to subdivision (a) shall be submitted by mail or in person to the local health officer in the city or county in which the registered hazardous waste hauler will be conducting the activities described in Section 25001.

(e) It is unlawful for any person to transport hazardous waste in any truck, trailer, semitrailer, vacuum tank, or cargo tank not inspected by the California Highway Patrol or to transport hazardous waste in any container, other than a container packaged pursuant to United States Department of Transportation regulations, which has not been inspected by the California Highway Patrol.

(f) Any person authorized to collect solid waste, as defined in Section 40191 of the Public Resources Code, who unknowingly transports hazardous waste to a solid waste facility, as defined in Section 40194 of the Public Resources Code, incidental to the collection of solid waste is not subject to the provisions of subdivisions (a) and (e).

SEC. 2. Section 25323.6 is added to the Health and Safety Code, to read:

25323.6. Any person who unknowingly transports hazardous waste to a solid waste facility pursuant to the exemption provided in subdivision (f) of Section 25163 shall not be considered a responsible

party for purposes of this chapter solely because of the act of transporting the waste. Nothing in this section shall affect the liability of this person for his or her negligent acts.

CHAPTER 660

An act to add Section 39675 to the Health and Safety Code, relating to air pollution.

[Approved by Governor September 9, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 39675 is added to the Health and Safety Code, to read:

39675. Sections 42400, 42400.1, 42400.2, and 42402.2 apply to violations of regulations or orders adopted pursuant to Article 4 (commencing with Section 39665). The recovery of civil penalties pursuant to Section 39674 or 42402.2 precludes criminal prosecution pursuant to Section 42400.1 or 42400.2 for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to this division.

The adoption of this section does not constitute a change in, but is declaratory of, existing law.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 661

An act to amend Section 12999.5 of the Food and Agricultural Code, and to amend Section 1695 of the Labor Code, relating to farm labor contractors.

[Approved by Governor September 9, 1990. Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 12999.5 of the Food and Agricultural Code is amended to read:

12999.5. (a) In lieu of civil prosecution by the director, the commissioner may levy a civil penalty against a person violating Division 6 (commencing with Section 11401), Article 10 (commencing with Section 12971) or Article 10.5 (commencing with Section 12980) of this chapter, Section 12995, Article 1 (commencing with Section 14001) of Chapter 3, or a regulation adopted pursuant to any of these provisions, of not more than one thousand dollars ($1,000) for each violation.

(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard. This shall include the right to review the commissioner's evidence and a right to present evidence on his or her own behalf.

(c) The person fined may appeal to the director within 10 days of the date of receiving notification of the fine. The following procedures apply to the appeal:

(1) The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her authorized agent, and shall state the grounds for the appeal and shall include a copy of the commissioner's decision. The applicant shall file a copy of the appeal with the commissioner at the same time it is filed with the director.

(2) Any party may, at the time of filing the appeal or within 10 days thereafter or at a later time prescribed by the director, present written evidence and a written argument to the director.

(3) The director may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days before the date set therefor. The times may be altered by mutual agreement of the appellant, the commissioner, and the director.

(5) The director shall decide the appeal on any oral or written argument, briefs, and evidence that he or she has received.

(6) The director shall render a written decision within 45 days of the date of appeal or within 15 days of the date of oral arguments or as soon thereafter as practical.

(7) On an appeal pursuant to this section, the director may sustain, modify by reducing the amount of the fine levied, or reverse the decision of the commissioner. A copy of the director's decision shall be delivered or mailed to the appellant and the commissioner.

(8) Review of a decision of the director may be sought by the appellant within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) The commissioner may levy a civil penalty pursuant to subdivisions (a) to (c), inclusive, against a person violating paragraph (1), (2), or (8) of subdivision (a) of Section 1695 of the Labor Code, which pertains to registration with the commissioner, carrying proof of that registration, and filing changes of address with the commissioner.

SEC. 2. Section 12999.5 of the Food and Agricultural Code is amended to read:

12999.5. (a) In lieu of civil prosecution by the director, the commissioner may levy a civil penalty against a person violating Division 6 (commencing with Section 11401), Article 10 (commencing with Section 12971) or Article 10.5 (commencing with Section 12980) of this chapter, Section 12995, Article 1 (commencing with Section 14001) of Chapter 3, or a regulation adopted pursuant to any of these provisions, of not more than one thousand dollars ($1,000) for each violation.

(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard. This shall include the right to review the commissioner's evidence and a right to present evidence on his or her own behalf.

(c) The person fined may appeal to the director within 10 days of the date of receiving notification of the fine. The following procedures apply to the appeal:

(1) The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her authorized agent, and shall state the grounds for the appeal and shall include a copy of the commissioner's decision. The applicant shall file a copy of the appeal with the commissioner at the same time it is filed with the director.

(2) Any party may, at the time of filing the appeal or within 10 days thereafter or at a later time prescribed by the director, present written evidence and a written argument to the director.

(3) The director may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days before the date set therefor. The times may be altered by mutual agreement of the appellant, the commissioner, and the director.

(5) The director shall decide the appeal on any oral or written argument, briefs, and evidence that he or she has received.

(6) The director shall render a written decision within 45 days of

the date of appeal or within 15 days of the date of oral arguments or as soon thereafter as practical.

(7) On an appeal pursuant to this section, the director may sustain, modify by reducing the amount of the fine levied, or reverse the decision of the commissioner. A copy of the director's decision shall be delivered or mailed to the appellant and the commissioner.

(8) Review of a decision of the director may be sought by the appellant within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) The commissioner may levy a civil penalty pursuant to subdivisions (a) to (c), inclusive, against a person violating paragraph (1), (2), or (8) of subdivision (a) of Section 1695 of the Labor Code, which pertains to registration with the commissioner, carrying proof of that registration, and filing changes of address with the commissioner.

(e) After the exhaustion of the appeal and review procedures provided in this section, the commissioner or his or her representative, may file a certified copy of a final decision of the commissioner that directs the payment of a civil penalty and, if applicable, a copy of any decision of the director or his or her authorized representative rendered on an appeal from the commissioner's decision and a copy of any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

SEC. 3. Section 1695 of the Labor Code is amended to read:

1695. (a) Every licensee shall do all of the following:

(1) Carry his or her license and proof of registration issued pursuant to paragraph (8) with him or her at all times and exhibit the same to all persons with whom he or she intends to deal in his or her capacity as a farm labor contractor prior to so dealing.

(2) File at the United States Post Office serving the address of the licensee, as noted on the face of his or her license, with the office of the Labor Commissioner, and with the agricultural commissioner of the county or counties in which the labor contractor has contracted with a grower, a correct change of address immediately upon each occasion the licensee permanently moves his or her address. The address shall also be the mailing address for purposes of notice required by the Labor Code or by any other applicable statute or regulations respecting service by mail.

(3) Promptly when due, pay or distribute to the individuals entitled thereto, all moneys or other things of value entrusted to the licensee by any third person for this purpose.

(4) Comply on his or her part with the terms and provisions of all legal and valid agreements and contracts entered into between licensee in his or her capacity as a farm labor contractor and third

persons.

(5) Have available for inspection by his or her employees and by the grower with whom he or she has contracted, a written statement in English and Spanish showing the rate of compensation he or she receives from the grower and the rate of compensation he or she is paying to his or her employees for services rendered to, for, or under the control of the grower.

(6) Take out a policy of insurance with any insurance carrier authorized to do business in the State of California in an amount satisfactory to the commissioner, which insures the licensee against liability for damage to persons or property arising out of the licensee's operation of, or ownership of, any vehicle or vehicles for the transportation of individuals in connection with his or her business, activities, or operations as a farm labor contractor.

(7) Have displayed prominently at the site where the work is to be performed and on all vehicles used by the licensee for the transportation of employees, the rate of compensation the licensee is paying to his or her employees for their services, printed in both English and Spanish and in lettering of a size to be prescribed by the Department of Industrial Relations.

(8) Register with the agricultural commissioner of the county or counties in which the labor contractor has contracted with a grower.

(b) The board of supervisors of a county may establish fees to be charged each licensee for the recovery of the actual costs incurred by commissioners in the administration of registrations and change of address and the issuance of proofs of registration.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 5. Section 2 of this bill incorporates amendments to Section 12999.5 of the Food and Agricultural Code proposed by both this bill and AB 3719. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1991, (2) each bill amends Section 12999.5 of the Food and Agricultural Code, and (3) this bill is enacted after AB 3719, in which case Section 1 of this bill shall not become operative.

CHAPTER 662

An act to amend Section 1010 of the Evidence Code, relating to privilege.

[Approved by Governor September 9, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 1010 of the Evidence Code is amended to read:

1010. As used in this article, "psychotherapist" means:

(a) A person authorized, or reasonably believed by the patient to be authorized, to practice medicine in any state or nation who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry.

(b) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(c) A person licensed as a clinical social worker under Article 4 (commencing with Section 9040) of Chapter 17 of Division 3 of the Business and Professions Code, when he or she is engaged in applied psychotherapy of a nonmedical nature.

(d) A person who is serving as a school psychologist and holds a credential authorizing such service issued by the state.

(e) A person licensed as a marriage, family, and child counselor under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(f) A person registered as a psychological assistant who is under the supervision of a licensed psychologist or board certified psychiatrist as required by Section 2913 of the Business and Professions Code, or a person registered as a marriage, family, and child counselor intern who is under the supervision of a licensed marriage, family, and child counselor, a licensed clinical social worker, a licensed psychologist, or a licensed physician certified in psychiatry, as specified in Section 4980.44 of the Business and Professions Code.

(g) A person registered as an associate clinical social worker who is under the supervision of a licensed clinical social worker, a licensed psychologist, or a board certified psychiatrist as required by Section 4996.20 of the Business and Professions Code.

(h) A person exempt from the Psychology Licensing Law pursuant to subdivision (d) of Section 2909 of the Business and Professions Code who is under the supervision of a licensed psychologist or board certified psychiatrist.

(i) A psychological intern as defined in Section 2911 of the Business and Professions Code who is under the supervision of a licensed psychologist or board certified psychiatrist.

(j) A trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, who is fulfilling his or her supervised practicum required by subdivision (b) of Section 4980.40 of the Business and Professions Code and is supervised by a licensed psychologist, board certified psychiatrist, a licensed clinical social worker, or a licensed marriage, family, and child counselor.

CHAPTER 663

An act to amend Section 10242.6 of the Business and Professions Code, and to amend Section 2954.9 of the Civil Code, relating to real property.

[Approved by Governor September 9, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 10242.6 of the Business and Professions Code is amended to read:

10242.6. (a) The principal and accrued interest on any loan secured by a mortgage or deed of trust on real property containing only a single-family, owner-occupied dwelling may be prepaid in whole or in part at any time but only a prepayment made within seven years of the date of execution of such mortgage or deed of trust may be subject to a prepayment charge and then solely as herein set forth. An amount not exceeding 20 percent of the unpaid balance may be prepaid in any 12-month period. A prepayment charge may be imposed on any amount prepaid in any 12-month period in excess of 20 percent of the unpaid balance which charge shall not exceed an amount equal to the payment of six months' advance interest on the amount prepaid in excess of 20 percent of the unpaid balance.

(b) Notwithstanding subdivision (a), there shall be no prepayment penalty charged to a borrower under a loan subject to this section if the dwelling securing the loan has been damaged to such an extent by a natural disaster for which a state of emergency is declared by the Governor, pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code, that the dwelling cannot be occupied and the prepayment is causally related thereto.

(c) As used in this section, "owner-occupied dwelling" means a dwelling which will be owned and occupied by a signatory to the mortgage or deed of trust secured by the dwelling within 90 days of the execution of the mortgage or deed of trust.

SEC. 2. Section 2954.9 of the Civil Code is amended to read:

2954.9. (a) (1) Except as otherwise provided by statute, where the original principal obligation is a loan for residential property of four units or less, the borrower under any note or evidence of

indebtedness secured by a deed of trust or mortgage or any other lien on real property shall be entitled to prepay the whole or any part of the balance due, together with accrued interest, at any time.

(2) Nothing in this subdivision shall prevent a borrower from obligating himself, by an agreement in writing, to pay a prepayment charge.

(3) This subdivision does not apply during any calendar year to a bona fide loan secured by a deed of trust or mortgage given back during such calendar year to the seller by the purchaser on account of the purchase price if the seller does not take back four or more such deeds of trust or mortgages during such calendar year. Nothing in this subdivision shall be construed to prohibit a borrower from making a prepayment by an agreement in writing with the lender.

(b) Except as otherwise provided in Section 10242.6 of the Business and Professions Code, the principal and accrued interest on any loan secured by a mortgage or deed of trust on owner-occupied residential real property containing only four units or less may be prepaid in whole or in part at any time but only a prepayment made within five years of the date of execution of such mortgage or deed of trust may be subject to a prepayment charge and then solely as herein set forth. An amount not exceeding 20 percent of the original principal amount may be prepaid in any 12-month period without penalty. A prepayment charge may be imposed on any amount prepaid in any 12-month period in excess of 20 percent of the original principal amount of the loan which charge shall not exceed an amount equal to the payment of six months' advance interest on the amount prepaid in excess of 20 percent of the original principal amount.

(c) Notwithstanding subdivisions (a) and (b), there shall be no prepayment penalty charged to a borrower under a loan subject to this section if the residential structure securing the loan has been damaged to such an extent by a natural disaster for which a state of emergency is declared by the Governor, pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code, that the residential structure cannot be occupied and the prepayment is causally related thereto.

CHAPTER 664

An act to amend Sections 714 and 7149.2 of the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 9, 1990 Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 714 of the Fish and Game Code is amended to read:

714. (a) In addition to Section 3031, 7149, or 7149.2, and notwithstanding Section 3037, the department shall issue lifetime sportsman's licenses under this section. A lifetime sportsman's license authorizes the taking of birds, mammals, fish, reptiles, or amphibia anywhere in this state in accordance with law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime sportsman's license is not transferrable. A lifetime sportsman's license does not include any special license tags, license stamps, or fees.

(b) A lifetime sportman's license may be issued to residents of this state, as follows:

(1) To a person over 62 years of age upon payment of a fee of seven hundred ten dollars ($710) in 1991, seven hundred seventy dollars ($770) in 1992, or eight hundred thirty dollars ($830) in 1993.

(2) To a person 40 years of age or over and less than 62 years of age upon payment of a fee of nine hundred eighty dollars ($980) in 1991, one thousand sixty dollars ($1,060) in 1992, or one thousand one hundred fifty dollars ($1,150) in 1993.

(3) To a person less than 40 years of age upon payment of a fee of one thousand four hundred thirty dollars ($1,430) in 1991, one thousand five hundred forty dollars ($1,540) in 1992, or one thousand six hundred seventy dollars ($1,670) in 1993.

(c) A lifetime sportsman's license is valid for a period ending five years after the licensee is no longer a resident of this state.

(d) Nothing in this section requires a person under the age of 16 to obtain a license to take fish, reptiles, or amphibia for purposes other than profit or to obtain a license to take birds or mammals except as required by law.

(e) Nothing in this section exempts an applicant for a license from meeting other qualifications or requirements otherwise established by law for the privilege of sporthunting or sportfishing.

(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. 2. Section 7149.2 of the Fish and Game Code is amended to

read:

7149.2. (a) In addition to Sections 714 and 7149, the department shall issue a lifetime sportfishing license under this section. A lifetime sportfishing license authorizes the taking of fish, amphibia, or reptiles anywhere in this state in accordance with the law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime sportfishing license is not transferrable. A lifetime sportfishing license does not include any special license tags, license stamps, or fees.

(b) A lifetime sportfishing license may be issued to residents of this state, as follows:

(1) To a person over 62 years of age upon payment of a fee of four hundred dollars ($400) in 1991, four hundred thirty dollars ($430) in 1992, or four hundred seventy dollars ($470) in 1993.

(2) To a person 40 years of age or over and less than 62 years of age upon payment of a fee of five hundred forty dollars ($540) in 1991, five hundred eighty dollars ($580) in 1992, or six hundred twenty dollars ($620) in 1993.

(3) To a person less than 40 years of age upon payment of a fee of seven hundred ten dollars ($710) in 1991, seven hundred seventy dollars ($770) in 1992, or eight hundred thirty dollars ($830) in 1993.

(c) A lifetime sportfishing license is valid for a period ending five years after the licensee is no longer a resident of this state.

(d) Nothing in this section requires a person under the age of 16 years to obtain a license to take fish, amphibia, or reptiles for purposes other than profit.

(e) Nothing in this section exempts a license applicant from meeting other qualifications or requirements otherwise established by law for the privilege of sportfishing.

(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.

CHAPTER 665

An act to amend Section 31156 of the Public Resources Code, relating to coastal resources.

[Approved by Governor September 9, 1990. Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 31156 of the Public Resources Code is amended to read:

31156. The conservancy may award grants to local public agencies and nonprofit organizations for the purpose of acquiring fee

title, development rights, easements, or other interests in land located in the coastal zone in order to prevent loss of agricultural land to other uses and to assemble agricultural lands into parcels of adequate size permitting continued agricultural production. The conservancy may also award grants to local public agencies and nonprofit organizations for the purpose of undertaking improvements to and development of these lands where that action is required to meet the purposes of this section. The expenditure of any of these funds shall be consistent with the provisions of this chapter.

CHAPTER 666

An act to add Section 15335.2 to the Government Code, and to amend Sections 40448.6 and 40448.7 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 9, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 15335.2 is added to the Government Code, to read:

15335.2. The Office of Small Business shall, to the maximum extent feasible operating pursuant to this chapter and Article 4 (commencing with Section 40440) of Chapter 5.5 of Part 3 of Division 26 of the Health and Safety Code, provide technical and financial assistance to small businesses to facilitate compliance with environmental requirements and regulations.

SEC. 2. Section 40448.6 of the Health and Safety Code is amended to read:

40448.6. The Legislature hereby finds and declares all of the following:

(a) It is necessary to increase the availability of financial assistance to small businesses which are subject to the rules and regulations of the south coast district, in order to minimize economic dislocation and adverse socioeconomic impacts.

(b) It is in the public interest that a portion of the funds collected by the south coast district from violators of air pollution regulations be allocated for the purpose of guaranteeing or otherwise reducing the financial risks of providing financial assistance to small businesses which face increased borrowing requirements in order to comply with air pollution control requirements.

(c) Public agencies and private lenders have a variety of methods available for providing financing assistance to small businesses and other employers, including taxable bonds, composite or pooled financing instruments, loan guarantees, and credit insurance, which

could be utilized in combination with the penalties collected by the south coast district to expand the availability and reduce the cost of financing assistance.

(d) The California Pollution Control Financing Authority has funds set aside from previous bond issues, which could be used to guarantee the issuance of bonds or other financing for small businesses for the purchase and installation of pollution control equipment.

(e) The Office of Small Business in the Department of Commerce, through the regional small business development corporations, has the ability to provide state loan guarantees and technical assistance to small businesses needing financial assistance.

(f) The Job Training Partnership Division of the Employment Development Department makes funds available for job training programs, including funds for dislocated workers, through the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(g) It is the policy of the state that the Job Training Partnership Division of the Employment Development Department, in cooperation with the districts and the state board, are encouraged to provide job training programs for workers who, as determined by the department or the local private industry council, have been laid off or dislocated as a result of actions resulting from air quality regulations.

(h) It is the policy of the state that the California Pollution Control Financing Authority, the Office of Small Business in the Department of Commerce, and other state agencies implementing small business assistance programs, in cooperation with the districts and the state board, are encouraged to provide technical and financial assistance to small businesses to facilitate compliance with air quality regulations.

SEC. 3. Section 40448.7 of the Health and Safety Code is amended to read:

40448.7. (a) The south coast district shall annually allocate to the account established pursuant to subdivision (b) not less than one million dollars ($1,000,000) of the funds received from civil and criminal penalties, out-of-court settlements, or other sources, for the purpose of guaranteeing or otherwise participating in the provision of financing assistance for lending programs of other public agencies or private lenders to small businesses for the purpose of complying with the south coast district regulations.

(b) In carrying out this section, the south coast district shall establish a special small business assistance fund known as the Air Quality Assistance Fund for the purpose of setting aside funds to be used in underwriting, guaranteeing, or otherwise participating in the provision of financing assistance by other public agencies or private lenders. Moneys in the fund shall be invested and reinvested in the same manner as other surplus government funds and the proceeds deposited in the fund.

(c) In carrying out this section, and its responsibilities for the

mitigation of socioeconomic impacts, the south coast district shall utilize, to the maximum extent, the financing instruments and administrative capacity of other public agencies and private lenders with respect to providing financing assistance, and shall endeavor to obtain the maximum leverage of its funds through guarantees and other forms of risk sharing with other public agencies and private lenders, in order to increase the availability of financing assistance to small businesses. The south coast district shall consider, and shall make available to public agencies and private lenders, relevant information contained in environmental and socioeconomic impact assessments conducted by it.

(d) Notwithstanding any other provision of law, the findings of any environmental audit or assessment conducted by or for a small business pursuant to this section shall remain the property of the business.

(e) "Small business," for the purposes of this section, has the same meaning as defined by the federal Small Business Administration.

(f) Not later than January 1, 1993, the south coast district shall submit to the Legislature and the Governor a report which assesses the effectiveness of this section in increasing the availability of financial assistance to small businesses subject to the rules and regulations of the district.

(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. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 667

An act to add Section 2076.5 to the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 9, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 2076.5 is added to the Business and Professions Code, to read:

2076.5. (a) Notwithstanding any other provision of law, a physician and surgeon lawfully practicing medicine in another state

or country may be exempted from licensure while practicing medicine in this state under the following conditions:

(1) The physician and surgeon has been invited by the United States Olympic Committee to provide medical services at the olympic training center at San Diego or to provide medical services at an event in this state sanctioned by the committee.

(2) The United States Olympic Committee certifies to the board the name of the physician and surgeon, the state or country of the applicant's licensure, and the dates within which the applicant has been invited to provide medical services.

(3) The physician's and surgeon's practice is limited to that required by the United States Olympic Committee. Those medical services shall be within the area of the physician's and surgeon's competence and shall only be provided to athletes or team personnel registered to train at the olympic training center or registered to compete in an event conducted under the sanction of the United States Olympic Committee.

(b) The exemption provided in this section shall remain in force while the holder is providing medical services at the invitation of the United States Olympic Committee and only during the time certified to the board, but in no event longer than 90 days.

(c) Notwithstanding any other provision of law, the official team manager who is responsible for any team member participating in events at the invitation of the United States Olympic Committee in California may give consent to the furnishing of hospital, medical, and surgical care to a minor who is a team member and that consent shall not be subject to disaffirmance because of minority. The consent of the parent, or parents, of that person shall not be necessary in order to authorize hospital, medical, and surgical care.

CHAPTER 668

An act to add Section 43030 to the Public Resources Code, relating to solid waste.

[Approved by Governor September 9, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 43030 is added to the Public Resources Code, to read:

43030. (a) The board shall adopt regulations governing the monitoring and control of the subsurface migration of landfill gas.

(b) The board shall consult with the State Air Resources Board and the California Air Pollution Control Officers Association to ensure that the regulations do not conflict with any regulations adopted by the State Air Resources Board or air pollution control

districts and air quality management districts.

(c) The regulations adopted by the board pursuant to subdivision (a) shall establish monitoring and control standards, based on the potential of the waste to generate landfill gas, as determined by the board, and shall require owners and operators of disposal sites to report monitoring data and to perform, or cause to be performed, site inventories and evaluations of disposal sites for the subsurface migration of landfill gas.

(d) As part of the biennial report required to be submitted pursuant to Section 40507, the board shall report to the Legislature on the progress in implementing the monitoring and control program for the subsurface migration of landfill gas established pursuant to this section, and make recommendations, as needed, to improve the program.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 669

An act to amend Section 338 of the Code of Civil Procedure, relating to limitation of actions.

[Approved by Governor September 9, 1990 Filed with Secretary of State September 12, 1990]

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:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for trespass upon or injury to real property.

(c) 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 article of historical, interpretive, scientific, or artistic significance is not deemed to have accrued until the discovery of the whereabouts of the article by the aggrieved party, his or her agent, or the law enforcement agency which originally investigated the theft.

(d) 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.

(e) 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.

(f) 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.

(g) An action for slander of title to real property.

(h) 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.

(i) An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Water Resources Control Board or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

(j) An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

(k) An action commenced under Division 26 (commencing with Section 39000) of the Health and Safety Code. These causes of action shall not be deemed to have accrued until the discovery by the State Air Resources Board or by a district, as defined in Section 39025 of the Health and Safety Code, of the facts constituting grounds for commencing the action under its jurisdiction.

CHAPTER 670

An act to add Section 10167.5 to the Insurance Code, relating to insurance.

[Approved by Governor September 9, 1990 Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 10167.5 is added to the Insurance Code, to read:

10167.5. (a) Whenever a nonforfeiture benefit is implemented by a life insurer in connection with a defaulting policyowner, the insurer shall provide a notice to the policyowner which explains that action and refers the policyowner to the other available options, if any, under the provisions of the policy.

(b) For purposes of this section, any notice to a policyholder shall be in writing and shall be mailed to the last known address of the policyowner shown on the records of the insurer.

(c) This section does not apply to any of the following:

(1) Reinsurance.

(2) Group insurance.

(3) Pure endowment.

(4) Annuity or reversionary annuity contract.

(5) Industrial insurance.

CHAPTER 671

An act to amend Section 35160.5 of the Education Code, relating to schools.

[Approved by Governor September 9, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 35160.5 of the Education Code is amended to read:

35160.5. (a) On or before December 1, 1984, the governing board of each school district shall, as a condition for the receipt of school apportionments from the State School Fund, adopt rules and regulations establishing school district policies as they relate to the following:

(1) Certification that personnel assigned to evaluate teachers have demonstrated competence in instructional methodologies and evaluation for teachers they are assigned to evaluate. The determination of whether school personnel meet the district's

adopted policies shall be made by the governing board.

(2) The establishment of district policies ensuring that each probationary certificated employee is assigned to a school within the district with assurances that his or her status as a new teacher and his or her potential needs for training, assistance, and evaluations will be recognized by the district.

(3) The establishment of policies and procedures that parents or guardians of pupils enrolled in the district may use to present complaints regarding employees of the district. These policies and procedures shall provide for appropriate mechanisms to respond to, and where possible, to resolve the complaints.

(b) The governing board of each school district that maintains one or more schools containing any of grades 7 to 12, inclusive, shall, as a condition for the receipt of an inflation adjustment pursuant to Section 42238.1, establish a school district policy regarding participation in extracurricular and cocurricular activities by pupils in grades 7 to 12, inclusive. The criteria, which shall be applied to extracurricular and cocurricular activities, shall ensure that pupil participation is conditioned upon satisfactory educational progress in the previous grading period. Pupils who are eligible for differential standards of proficiency pursuant to subdivision (d) of Section 51215 are covered by this section consistent with that subdivision. No person shall classify a pupil as eligible for differential standards of proficiency pursuant to subdivision (d) of Section 51215 for the purpose of circumventing the intent of this subdivision.

(1) For purposes of this subdivision, "extracurricular activity" means a program that has all of the following characteristics:

(A) The program is supervised or financed by the school district.

(B) Pupils participating in the program represent the school district.

(C) Pupils exercise some degree of freedom in either the selection, planning, or control of the program.

(D) The program includes both preparation for performance and performance before an audience or spectators.

(2) For purposes of this subdivision, an "extracurricular activity" is not part of the regular school curriculum, is not graded, does not offer credit, and does not take place during classroom time.

(3) For purposes of this subdivision, a "cocurricular activity" is defined as a program that may be associated with the curriculum in a regular classroom.

(4) Any teacher graded or required program or activity for a course which satisfies the entrance requirements for admission to the California State University or the University of California, is not an extracurricular or cocurricular activity as defined by this section.

(5) For purposes of this subdivision, "satisfactory educational progress" shall include, but not be limited to, the following:

(A) Maintenance of minimum passing grades, which is defined as at least a 2.0 grade point average in all enrolled courses on a 4.0 scale.

(B) Maintenance of minimum progress toward meeting the high

school graduation requirements prescribed by the governing board.

(6) For purposes of this subdivision, "previous grading period" does not include any grading period in which the pupil was not in attendance for all, or a majority of, the grading period due to absences excused by the school for reasons such as serious illness or injury, approved travel, or work. In that event, "previous grading period" is deemed to mean the grading period immediately prior to the grading period or periods excluded pursuant to this paragraph.

(7) A program that has, as its primary goal, the improvement of academic or educational achievements of pupils is not an extracurricular or cocurricular activity as defined by this section.

(8) The governing board of each school district may adopt, as part of its policy established pursuant to this subdivision, provisions that would allow a pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), in the previous grading period to remain eligible to participate in extracurricular and cocurricular activities during a probationary period. The probationary period shall not exceed one semester in length, but may be for a shorter period of time, as determined by the governing board of the school district. A pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), during the probationary period shall not be allowed to participate in extracurricular and cocurricular activities in the subsequent grading period.

(9) Nothing in this subdivision shall preclude the governing board of a school district from imposing a more stringent academic standard than that imposed by this subdivision. If the governing board of a school district imposes a more stringent academic standard, the governing board shall establish the criteria for participation in extracurricular and cocurricular activities at a meeting open to the public pursuant to Section 35145.

The governing board of each school district shall annually review the school district policies adopted pursuant to the requirements of this section.

CHAPTER 672

An act to add Section 1259 to the Health and Safety Code, relating to hospital interpreters.

[Approved by Governor September 9, 1990. Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 1259 is added to the Health and Safety Code, to read:

1259. (a) The Legislature finds and declares that California is becoming a land of people whose languages and cultures give the

state a global quality. The Legislature further finds and declares that access to basic health care services is the right of every resident of the state, and that access to information regarding basic health care services is an essential element of that right.

Therefore, it is the intent of the Legislature that where language or communication barriers exist between patients and the staff of any general acute care hospital, arrangements shall be made for interpreters or bilingual professional staff to ensure adequate and speedy communication between patients and staff.

(b) As used in this section:

(1) "Interpreter" means a person fluent in English and in the necessary second language, who can accurately speak, read, and readily interpret the necessary second language, or a person who can accurately sign and read sign language. Interpreters shall have the ability to translate the names of body parts and to describe competently symptoms and injuries in both languages. Interpreters may include members of the medical or professional staff.

(2) "Language or communication barriers" means:

(A) With respect to spoken language, barriers which are experienced by individuals who are limited-English-speaking or non-English-speaking individuals who speak the same primary language and who comprise at least 5 percent of the population of the geographical area served by the hospital or of the actual patient population of the hospital. In cases of dispute, the state department shall determine, based on objective data, whether the 5 percent population standard applies to a given hospital.

(B) With respect to sign language, barriers which are experienced by individuals who are deaf and whose primary language is sign language.

(c) To ensure access to health care information and services for limited-English-speaking or non-English-speaking residents and deaf residents, licensed general acute care hospitals shall:

(1) Review existing policies regarding interpreters for patients with limited-English proficiency and for patients who are deaf, including the availability of staff to act as interpreters.

(2) Adopt and review annually a policy for providing language assistance services to patients with language or communication barriers. The policy shall include procedures for providing, to the extent possible, as determined by the hospital, the use of an interpreter whenever a language or communication barrier exists, except where the patient, after being informed of the availability of the interpreter service, chooses to use a family member or friend who volunteers to interpret. The procedures shall be designed to maximize efficient use of interpreters and minimize delays in providing interpreters to patients. The procedures shall ensure, to the extent possible, as determined by the hospital, that interpreters are available, either on the premises or accessible by telephone, 24 hours a day. The hospital shall annually transmit to the state department a copy of the updated policy and shall include a

description of its efforts to ensure adequate and speedy communication between patients with language or communication barriers and staff.

(3) Develop, and post in conspicuous locations, notices that advise patients and their families of the availability of interpreters, the procedure for obtaining an interpreter and the telephone numbers where complaints may be filed concerning interpreter service problems, including, but not limited to, a T.D.D. number for the hearing impaired. The notices shall be posted, at a minimum, in the emergency room, the admitting area, the entrance, and in outpatient areas. Notices shall inform patients that interpreter services are available upon request, shall list the languages for which interpreter services are available, shall instruct patients to direct complaints regarding interpreter services to the state department, and shall provide the local address and telephone number of the state department, including, but not limited to, a T.D.D. number for the hearing impaired.

(4) Identify and record a patient's primary language and dialect on one or more of the following: patient medical chart, hospital bracelet, bedside notice, or nursing card.

(5) Prepare and maintain as needed a list of interpreters who have been identified as proficient in sign language and in the languages of the population of the geographical area serviced who have the ability to translate the names of body parts, injuries, and symptoms.

(6) Notify employees of the hospital's commitment to provide interpreters to all patients who request them.

(7) Review all standardized written forms, waivers, documents, and informational materials available to patients upon admission to determine which to translate into languages other than English.

(8) Consider providing its nonbilingual staff with standardized picture and phrase sheets for use in routine communications with patients who have language or communication barriers.

(9) Consider developing community liaison groups to enable the hospital and the limited-English-speaking and deaf communities to ensure the adequacy of the interpreter services.

(d) Noncompliance with this section shall be reportable to licensing authorities.

(e) Section 1290 shall not apply to this section.

CHAPTER 673

An act to amend Sections 76271 and 76431 of the Government Code, relating to courts.

[Approved by Governor September 9, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 76271 of the Government Code is amended to read:

76271. (a) Provided that the board of supervisors has adopted a resolution stating that the provisions of this section are necessary to the establishment of adequate court facilities in the county, there shall be levied with respect to the Courthouse Temporary Construction Fund an additional amount of two dollars ($2) 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 subparagraph (C) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. These amounts shall be deposited with the county treasurer and placed in the Courthouse Temporary Construction Fund.

(b) The assessment increase imposed pursuant to this section shall continue so long as deposits to the funds are required pursuant to subdivision (g).

(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 assessments established in the resolution adopted pursuant to this section, except as otherwise agreed upon by the local governmental entities involved.

(d) Notwithstanding any other provision of law, for the purpose of assisting Monterey County in the acquisition, lease, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, and the improvement of criminal justice automated information systems, the board of supervisors shall establish in the county treasury a Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to this section. The moneys of the Courthouse Temporary Construction Fund shall be payable only for the purposes set forth in subdivision (e) and at the time necessary therefor.

(e) In conjunction with the acquisition, lease, rehabilitation,

construction, or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (d), the county may use the moneys of the Courthouse Temporary Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if a new courtroom or a courtroom building or buildings are acquired, constructed, or financed or (2) to acquire, rehabilitate, construct, or finance excess courtrooms or an excess courtroom building or buildings if such excess is anticipated to be needed at a later time.

(f) Any excess courtroom or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (e) may be leased or rented for uses other than the operation of the justice system until such time as such excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amount received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Temporary Construction Fund.

(g) The county treasurer shall place all assessment amounts collected in the fund.

The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

Deposits to the fund in accordance with this subdivision shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or until such time as any debt incurred prior to the year 2000 for the purposes of this section has been retired, whichever is longer.

(h) Subdivisions (d) to (g), inclusive, of this section shall become operative upon the adoption of a resolution by the board of supervisors stating that the provisions of this section are necessary to the establishment of adequate courtroom facilities in the county and instructing the county clerk to transmit, on the next business day following the adoption of the resolution, a copy of the resolution to the clerk of the municipal court.

SEC. 2. Section 76431 of the Government Code is amended to read:

76431. (a) Provided that the board of supervisors has adopted a resolution stating that the provisions of this section are necessary to the establishment of adequate court facilities in the county, the following surcharges and assessments shall be collected with respect to the Courthouse Temporary Construction Fund:

(1) 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 Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle 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) There shall be levied an additional amount of two dollars ($2) 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 subparagraph (C) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. These amounts shall be deposited with the county treasurer and placed in the Courthouse Temporary Construction Fund.

(b) The surcharge and assessment increase imposed pursuant to this section shall continue so long as deposits to the funds are required pursuant to subdivision (i).

(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.

(d) Notwithstanding any other provision of law, for the purpose of assisting Santa Clara County in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, the board of supervisors shall establish in the county treasury a Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to subdivisions (g), (h), and (i). The moneys of the Courthouse Temporary Construction Fund shall be payable only for the purposes set forth in subdivision (e) and at the time necessary therefor.

(e) In conjunction with the acquisition, rehabilitation, construction, or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (d), the county may use the moneys of the Courthouse Temporary Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if a new courtroom or a courtroom building or buildings are acquired, constructed, or financed or (2) to acquire, rehabilitate, construct, or finance excess courtrooms or an excess courtroom building or buildings if such excess is anticipated to be needed at a later time.

(f) Any excess courtroom or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (e) may be leased or rented for uses other than the operation of the justice system until such time as such excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amount received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Temporary Construction Fund.

(g) The county treasurer shall place in the fund one dollar and fifty cents ($1.50) for each parking case presented to or filed in the courts of the county. Such moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(h) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each violation which is not filed in court to the county treasurer. Such payments to the county treasurer shall be made monthly, and the treasurer shall deposit all such sums in the fund.

(i) The county treasurer shall place all additional assessment amounts collected on nonparking offenses in the fund.

The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

Deposits to the fund in accordance with subdivisions (g), (h), and this subdivision shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or until such time as any debt incurred prior to the year 2000 for the purposes of this section has been retired, whichever is later.

(j) Subdivisions (d) to (i), inclusive, of this section shall become operative upon the adoption of a resolution by the board of supervisors stating that the provisions of this section are necessary to the establishment of adequate courtroom facilities in the county setting forth the surcharge or surcharges, and the manner in which such surcharge or surcharges shall be collected, and instructing the county clerk to transmit, on the next business day following the adoption of the resolution, a copy of the resolution to the clerk of the municipal court.

CHAPTER 674

An act relating to controlled substances.

[Approved by Governor September 9, 1990. Filed with Secretary of State September 12, 1990.]

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

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

(1) California is one of the leaders in the nation in the illegal manufacture, sale, smuggling, and use of controlled substances.

(2) It is estimated that the annual cost of this problem to California's society is $6 billion.

(3) Success in the war on drugs depends in no small part on having comprehensive information wherever it is needed in order to make sound policy and operational decisions.

(4) This information management challenge is particularly acute given the number and diversity of federal, state, and local agencies involved in the drug war.

(5) It is not only a question of having enough information, but also a question of making the information that is available and the information which will become available accessible to those who are involved in the fight against drugs.

(6) Except for the small fraction of information in government hands that is sensitive and must be closely held, wider access to drug-related information is essential.

(7) California's drug war policy must be to maximize the sharing and use of relevant information among appropriate agencies, upon which coherent and coordinated policymaking depends.

(b) Whenever any one of the following entities receives federal moneys which are specifically earmarked as part of the President's "National Drug Control Strategy," that entity, within 30 days after receiving the moneys, shall submit a report to the Department of Finance on the proposed use of, and goals to be achieved with, those moneys:

(1) Department of Alcohol and Drug Programs.

(2) Department of Corrections.

(3) State Department of Education.

(4) Department of Justice.

(5) Department of the Youth Authority.

(6) Office of Criminal Justice Planning.

In addition, each entity shall submit a report to the Department of Finance within 30 days after the end of each federal fiscal year specifying the actual use and level of attainment of those specified goals.

(c) The Department of Finance shall analyze each report submitted pursuant to subdivision (b) and shall submit its findings

to the Legislature no later than 30 days after receiving each report.

CHAPTER 675

An act to amend Sections 3301, 20017.99, and 74368 of the Government Code, to amend Sections 488.5, 557.5, 557.6, and 669.5 of the Insurance Code, and to amend Section 148.5 of the Penal Code, relating to peace officers, and making an appropriation therefor.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 3301 of the Government Code is amended to read:

3301. For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code.

The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California.

SEC. 2. Section 20017.99 of the Government Code is amended to read:

20017.99. "State peace officer/firefighter member" also includes state officers and employees who have been designated as a peace officer as defined in Sections 830.1, 830.2, 830.3, 830.38, 830.4, and 830.5 of the Penal Code, except patrol members, or a firefighter whose principal duties consist of active firefighting/fire suppression, who are either excluded from the definition of state employee in subdivision (c) of Section 3513 or is a supervisory employee as defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, provided, that those officers and employees have responsibility for the direct supervision of state peace officer/firefighter personnel specified in Sections 20017.95, 20017.96, 20017.97, and 20017.98. The Department of Personnel Administration shall, on an annual basis, determine which classes meet the above

conditions and are not classes specified in Sections 20017.95, 20017.96, 20017.97, and 20017.98, and report its findings to the Legislature and to the Public Employees' Retirement System, to be effective July 1 of each year.

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to the effective date of this section by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

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. 3. 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) Nineteen 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 shall 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, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, or 830.4 of the Penal Code within the past three years.

(f) One administrative secretary I, II, or III.

(g) One administrative services manager I, II, or III 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 the 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.

(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 the vacancy shall increase by one, a position in the class intermediate typist under subdivision (h).

(*l*) Nine 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 that person's class and step.

(p) Two supervising legal services clerks.

(q) Three communications dispatchers I or II.

(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. These 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. Persons who graduate and receive a degree in the field which qualified them for appointment to a marshal student worker class may remain in the class and be employed on a full-time basis for up to six months from the first day of the month following their date of graduation.

(v) Two associate systems analysts or assistant systems analysts.

(w) 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. Prior to the establishment of those classes, the county personnel director shall conduct a classification review and make recommendations to the marshal as to the establishment of the classes. 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 workers 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 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 the 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.

(x) Notwithstanding any other provision of law, the number of positions in classifications authorized under subdivisions (b) to (s), inclusive, (u), (v) and (w) of this section may be increased by up to 100 additional positions by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The rules regarding appointment and compensation (including salary and fringe benefits) as they relate to appointments of persons to these positions shall be the same as those applicable to the class of the positions. The action of the majority of the judges and the resolution of the board of supervisors adjusting those positions shall designate the class title or titles and number of positions to be added to each respective class. Any adjustment made pursuant to this subdivision shall be effective on adoption of the resolution by the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which this subdivision becomes effective, unless earlier ratified by the Legislature. This subdivision shall remain in operation only until January 1 of the second year following the year in which it becomes operative, and as of that date is inoperative.

SEC. 4. Section 488.5 of the Insurance Code, as amended by Chapter 82 of the Statutes of 1990, is amended to read:

488.5. No insurer shall, in issuing or renewing a private automobile insurance policy to a peace officer, member of the California Highway Patrol, or firefighter, with respect to his or her operation of a private motor vehicle, increase the premium on that policy for the reason that the insured or applicant for insurance has been involved in an accident while operating an authorized emergency vehicle, as defined in subdivision (a) of Section 165 of the Vehicle Code, in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code, or in subdivision (f) of Section 165 of the Vehicle Code, in the performance of his or her duty during the hours of his or her employment.

As used in this section:

(a) "Peace officer" means every person defined in Section 830.1, subdivisions (a), (b), (c), (d), (e), (g), and (h) of Section 830.2, subdivisions (a), (b), and (d) of Section 830.31, subdivisions (a) and (b) of Section 830.32, subdivisions (a), (b), (c), (d), and (e) of Section 830.33, subdivisions (a) and (b) of Section 830.5, and Sections 830.38 and 830.6, of the Penal Code.

(b) "Policy" shall have the same meaning as defined in subdivision (a) of Section 660.

SEC. 5. Section 557.5 of the Insurance Code, as amended by Chapter 82 of the Statutes of 1990, is amended to read:

557.5. No peace officer, member of the California Highway Patrol, or firefighter shall be required to report any accident in which he or she is involved while operating an authorized

emergency vehicle, as defined in subdivision (a) of Section 165 of the Vehicle Code, in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code, or in subdivision (f) of Section 165 of the Vehicle Code in performance of his or her duty during the hours of his or her employment, to any person who has issued that peace officer, member of the California Highway Patrol, or firefighter a private automobile insurance policy.

As used in this section:

(a) "Peace officer" means every person defined in Section 830.1, subdivisions (a), (b), (c), (d), (e), (g), and (h) of Section 830.2, subdivisions (a), (b), and (d) of Section 830.31, subdivisions (a) and (b) of Section 830.32, subdivisions (a), (b), (c), (d), and (e) of Section 830.33, subdivisions (a) and (b) of Section 830.5, and Sections 830.38 and 830.6, of the Penal Code.

(b) "Policy" shall have the same meaning as defined in subdivision (a) of Section 660.

SEC. 6. Section 557.6 of the Insurance Code, as amended by Chapter 82 of the Statutes of 1990, is amended to read:

557.6. Any peace officer as defined pursuant to this section who has been involved in an accident shall submit to his or her private automobile insurer within 30 days of the accident his or her written declaration under penalty of perjury stating whether or not at the time of the accident he or she was operating an authorized emergency vehicle, as defined in subdivision (a) of Section 165 of the Vehicle Code, in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code, or in subdivision (f) of Section 165 of the Vehicle Code in the performance of his or her duty during the hours of his or her employment. In lieu of a written declaration, the peace officer may submit to the private automobile insurer a copy of the incident report filed by the peace officer with his or her employer.

As used in this section, "peace officer" means every person defined in Section 830.1, subdivisions (a), (b), (c), (d), (e), (g), and (h) of Section 830.2, subdivisions (a), (b), and (d) of Section 830.31, subdivisions (a) and (b) of Section 830.32, subdivisions (a), (b), (c), (d), and (e) of Section 830.33, subdivisions (a) and (b) of Section 830.5, and Sections 830.38 and 830.6, of the Penal Code.

SEC. 7. Section 669.5 of the Insurance Code is amended to read:

669.5. No insurer shall fail to renew any private automobile insurance policy of a peace officer, member of the California Highway Patrol, or firefighter, with respect to his or her operation of a private motor vehicle, for the reason that the insured has been involved in an accident while operating an authorized emergency vehicle, as defined in subdivision (a) of Section 165 of the Vehicle Code or in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code or in subdivision (f) of Section 165 of the Vehicle Code, in performance of his or her duty during the hours of his or her employment. As used in this section, "peace officer" shall have the same meaning as defined in Section 830.1 of the Penal Code, subdivisions (a), (b), (c), (d), (e), (g) and (h) of Section 830.2 of the

Penal Code, subdivisions (a), (b), and (d) of Section 830.31 of the Penal Code, subdivisions (a) and (b) of Section 830.32 of the Penal Code, subdivisions (a), (b), (c), (d), and (e) of Section 830.33 of the Penal Code, Section 830.38 of the Penal Code, subdivisions (a) and (b) of Section 830.5 of the Penal Code, and Section 830.6 of the Penal Code.

SEC. 8. Section 148.5 of the Penal Code is amended to read:

148.5. (a) Every person who reports to any peace officer listed in Section 830.1 or 830.2, district attorney, or deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor.

(b) Every person who reports to any other peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

(c) Except as provided in subdivisions (a) and (b), every person who reports to any employee who is assigned to accept reports from citizens, either directly or by telephone, and who is employed by a state or local agency which is designated in Section 830.1, 830.2, subdivision (e) of 830.3, Section 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, or 830.4, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the employee is engaged in the performance of his or her duties as an agency employee and (2) the person providing the false information knows or should have known that the person receiving the information is an agency employee engaged in the performance of the duties described in this subdivision.

(d) This section does not apply to reports made by persons who are required by statute to report known or suspected instances of child abuse, dependent adult abuse, or elder abuse.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 676

An act to amend Section 9801 of, and to add Sections 9805, 9806, and 9808 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 9801 of the Vehicle Code is amended to read:

9801. (a) When the registration of a vehicle is delinquent, the department may collect the amount of the lien on the vehicle plus costs, not to exceed two hundred fifty dollars ($250), by the filing of a certificate requesting judgment pursuant to Section 9805, or by appropriate civil action and by the seizure and sale of the vehicle or any other vehicle owned by the owner of the unregistered vehicle.

(b) At least 10 days before the seizure, notice of the lien and of the intent to seize and sell the vehicle shall be given by the department to the registered and legal owners, and to any other person known to be claiming an interest in the vehicle, by registered mail addressed to those persons at the last known addresses appearing on the records of the department.

(c) Any person receiving the notice of the lien and the intent to seize and sell the vehicle may request a hearing to contest the existence or amount of the lien. If no hearing is requested, the vehicle shall be seized and sold.

(d) If a hearing is requested, 10 days' notice shall be given of the time and place of the hearing, which shall be held within the county of residence of the person requesting the hearing or of the registered owner. The hearing shall be conducted by a referee who shall submit findings and recommendations to the director or his or her authorized representative, who shall decide the matter. The decision shall be effective on notice thereof to the interested parties. However, the director or his or her authorized representative may rescind the decision and reconsider the matter for good cause shown at any time within three years after the date the disputed fee or tax first became due, or within one year from the hearing, whichever is later.

(e) At any time before seizure or sale, any registered owner, legal owner, or person claiming an interest in the vehicle may pay the department the amount of the lien, plus costs. In that event, the seizure or sale shall not be held and the vehicle, if seized, shall be returned by the department to the person entitled to its possession. This payment shall not constitute a waiver of the right to a hearing.

(f) When the department or an authorized agent has reasonable cause to believe that the lien may be jeopardized within the 10-day notice-of-intent period, the vehicle may be seized without prior

notice to the registered or legal owner, upon obtaining authorization for the seizure from the Registrar of Vehicles or authorized representative. In all those cases, a notice of the lien and the intent to sell the vehicle shall be given by the department to the legal and registered owner, and to any other person known to be claiming an interest in the vehicle, within 48 hours after seizure excluding Saturdays, Sundays, and holidays specified in Section 6700 of the Government Code. Any hearing to contest the lien and the seizure shall be requested within 10 days following transmittal of that notice.

(g) When a lien exists against one or more vehicles owned by the same person or persons, the department may seize and sell a sufficient number of the vehicles to pay the lien, plus costs, on one or more of the vehicles in accordance with subdivision (a).

(h) The Department of the California Highway Patrol shall assist with the seizure and impounding of the vehicle. Any municipality or county law enforcement agency may assist with the seizure and impounding of the vehicle.

(i) Any property found by the department in any vehicle seized under the provisions of this article shall be handled by the department in the same manner as is provided in Sections 2414 and 2415.

SEC. 2. Section 9805 is added to the Vehicle Code, to read:

9805. (a) If any fee, tax, penalty, or collection cost constitutes a lien under this division on the vehicle on which it is due is not paid when due, and there is evidence that the vehicle has been operated in violation of this code or any regulations adopted pursuant to this code, the department may file in the office of the county clerk of Sacramento County, or any other county, a certificate specifying the amount of any fee, tax, penalty, and collection cost due, the name and last known address of the individual, company, or corporation liable for the amount due, and the fact that the department has complied with all the provisions of this division in the computation of the amount due, and a request that judgment be entered against the individual, company, or corporation in the amount of the fee, tax, penalty, and collection cost set forth in the certificate.

(b) Prior to the filing of the certificate, the department shall, by mail, notify the individual, company, or corporation of the amount which is due and of the opportunity for a hearing as provided in this subdivision. At the request of the individual, company, or corporation, the department shall conduct a hearing pursuant to Section 9801, at which it shall be determined whether the claimed fee, tax, penalty, or collection cost in the amount claimed by the department is due and constitutes a lien on the vehicle, and whether the individual, company, or corporation is liable therefor.

(c) If no hearing is requested within 15 days after mailing the notice required by subdivision (b), the certificate required by subdivision (b) may be filed.

SEC. 3. Section 9806 is added to the Vehicle Code, to read:

9806. The county clerk, immediately upon the filing of the

certificate specified in Section 9805, shall enter a judgment for the people of the State of California against the individual, company, or corporation in the amount of any fee, tax, penalty, and collection cost set forth in the certificate. The county clerk may file the judgment in a looseleaf book entitled "Department of Motor Vehicles Registration Judgments."

SEC. 4. Section 9808 is added to the Vehicle Code, to read:

9808. Execution shall issue upon the judgment specified in Section 9806 upon request of the department in the same manner as execution may issue upon other judgments, and sales shall be held under the execution as prescribed in the Code of Civil Procedure, except that attachment may not issue against any real property.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 677

An act to amend Sections 904 and 911 of the Corporations Code, relating to corporations.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 904 of the Corporations Code is amended to read:

904. (a) Except as provided in subdivision (b), if any amendment of the articles would make shares assessable or would authorize remedy by action for the collection of an assessment on fully paid shares, it shall be approved by all of the outstanding shares affected regardless of limitations or restrictions on the voting rights thereof.

(b) If a corporation is a mutual water company within the meaning of Section 2705 of the Public Utilities Code, an amendment of the articles to make the shares assessable or to amend prior article provisions authorizing assessment of shares shall be approved by the holders of at least two-thirds of the outstanding shares of any class

affected by the amendment regardless of limitations or restrictions on the voting rights thereof. However, if the amendment would authorize remedy by action for the collection of an assessment on fully paid shares, the amendment shall be approved pursuant to subdivision (a).

SEC. 2. Section 911 of the Corporations Code is amended to read:

911. (a) A corporation may, by amendment of its articles pursuant to this section, convert to a nonprofit public benefit corporation, nonprofit mutual benefit corporation, nonprofit religious corporation, or cooperative corporation.

(b) The amendment of the articles to convert to a nonprofit corporation shall revise the statement of purpose, delete the authorization for shares and any other provisions relating to authorized or issued shares, make such other changes as may be necessary or desired, and, if any shares have been issued, provide either for the cancellation of those shares or for the conversion of those shares to memberships of the nonprofit corporation. The amendment of the articles to convert to a cooperative corporation shall revise the statement of purpose, make such other changes as may be necessary or desired, and, if any shares have been issued, provide for the cancellation of those shares or for the conversion of those shares to memberships of the cooperative corporation, if necessary.

(c) If shares have been issued, an amendment to convert to a nonprofit corporation shall be approved by all of the outstanding shares of all classes regardless of limitations or restrictions on the voting rights thereof and an amendment to convert to a cooperative corporation shall be approved by the outstanding shares (Section 152) of each class regardless of limitations or restrictions on the voting rights thereof.

(d) If an amendment pursuant to this section is included in a merger agreement, the provisions of this section apply, except that any provision for cancellation or conversion of shares shall be in the merger agreement rather than in the amendment of the articles.

(e) Notwithstanding subdivision (c), if a corporation is a mutual water company within the meaning of Section 2705 of the Public Utilities Code and under the terms of the conversion each outstanding share is converted to a membership of a nonprofit mutual benefit corporation, an amendment to convert to a nonprofit mutual benefit corporation shall be approved by the outstanding shares (Section 152) of each class regardless of limitations or restrictions on the voting rights thereof.

CHAPTER 678

An act to amend Section 166 of the Corporations Code, relating to corporations.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 166 of the Corporations Code is amended to read:

166. "Distribution to its shareholders" means the transfer of cash or property by a corporation to its shareholders without consideration, whether by way of dividend or otherwise, except a dividend in shares of the corporation, or the purchase or redemption of its shares for cash or property, including the transfer, purchase, or redemption by a subsidiary of the corporation. The time of any distribution by way of dividend shall be the date of declaration thereof and the time of any distribution by purchase or redemption of shares shall be the date cash or property is transferred by the corporation, whether or not pursuant to a contract of an earlier date; provided, that where a debt obligation that is a security (as defined in subdivision (1) of Section 8102 of the Commercial Code) is issued in exchange for shares the time of the distribution is the date when the corporation acquires the shares in the exchange. In the case of a sinking fund payment, cash or property is transferred within the meaning of this section at the time that it is delivered to a trustee for the holders of preferred shares to be used for the redemption of the shares or physically segregated by the corporation in trust for that purpose. "Distribution to its shareholders" shall not include (a) satisfaction of a final judgment of a court or tribunal of appropriate jurisdiction ordering the rescission of the issuance of shares, (b) the rescission by a corporation of the issuance of it shares, if the board determines (with any director who is, or would be, a party to the transaction not being entitled to vote) that (1) it is reasonably likely that the holder or holders of the shares in question could legally enforce a claim for the rescission, (2) that the rescission is in the best interests of the corporation, and (3) the corporation is likely to be able to meet its liabilities (except those for which payment is otherwise adequately provided) as they mature, or (c) the repurchase by a corporation of its shares issued by it pursuant to Section 408, if the board determines (with any director who is, or would be, a party to the transaction not being entitled to vote) that (1) the repurchase is in the best interests of the corporation and that (2) the corporation is likely to be able to meet its liabilities (except those for which payment is otherwise adequately provided) as they mature.

CHAPTER 679

An act to add Section 18412 to the Financial Code, relating to industrial loan companies.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 18412 is added to the Financial Code, to read:

18412. Each report required under this article shall be filed with the commissioner at the time that the commissioner by regulation or order may require. If any industrial loan company fails to make any report required by this article at the time specified by the commissioner, or fails to include in that report any matter required by this article or by the commissioner, the commissioner shall assess and collect a penalty of one hundred dollars ($100) for each day which that report is delayed or withheld by the failure or neglect of that industrial loan company.

CHAPTER 680

An act to amend Section 273.5 of the Penal Code, relating to crimes.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, or any person who willfully inflicts upon any person who is the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars ($6,000) or by both.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

(d) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father as set forth in Section 7004 of the Civil Code.

(e) In any case in which a person is convicted of violating this section and probation is granted, the court shall require participation in a batterer's treatment program as a condition of probation unless, considering all of the facts and the circumstances, the court finds participation in a batterer's treatment program inappropriate for the defendant.

(f) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted under subdivision (a) for an offense that occurred within seven years of the offense of the second conviction, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than 96 hours and that he or she participate in for no less than one year, and successfully complete, a batterer's treatment program, as designated by the court. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, or the participation in a batterer's treatment program, or both the mandatory minimum imprisonment and participation in a batterer's treatment program, as required by this subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted of two or more violations of subdivision (a) for offenses that occurred within seven years of the most recent conviction, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than 30 days and that he or she participate in for no less than one year, and successfully complete, a batterer's treatment program as designated by the court. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, or the participation in a batterer's treatment program, or both the mandatory minimum imprisonment and participation in a batterer's treatment program, as required by this subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

SEC. 2. This act does not constitute a change in, but is declaratory of, existing law.

CHAPTER 681

An act to amend Section 1730 of, and to add Section 12944.7 to, the Water Code, relating to water.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 1730 of the Water Code is amended to read:

1730. (a) Nothing in this article shall prevent any writ of mandate to inquire into the validity of a finding or order by the board under subdivision (b) of Section 1727 or following a hearing pursuant to subdivision (c) of Section 1727. Any petition for a writ of mandate shall be filed within 30 days after final action by the board. The right to petition shall not be affected by the failure to seek reconsideration before the board.

(b) The evidence to be considered by the court in the writ of mandate proceeding shall be limited to the documents and materials in the administrative record before the board prior to making the finding or order. However, where the court finds that there is relevant evidence which, in the exercise of due diligence could not have been produced or which was improperly excluded from the administrative record by the board, the court may admit the evidence at the hearing of the writ.

SEC. 2. Section 12944.7 is added to the Water Code, to read:

12944.7. Notwithstanding any other provision of law, any public agency which has executed a contract with the state for a water supply pursuant to Section 12937 may sell any water available to that agency directly to any ultimate water consumer within the agency. If the principal act of the public agency restricts the agency to the wholesale distribution of water, the right to sell water directly to consumers may be exercised by the agency only pursuant to written contract with (1) a wholesaler, if any exists, to which the water would otherwise be sold and (2) a public entity water purveyor, if any exists, serving water at retail within the area in which the consumer is located or a water corporation, if any exists, subject to regulation by the Public Utilities Commission and serving water at retail within the area in which the consumer is located.

CHAPTER 682

An act to amend Section 11580.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the limits specified in subdivision (m) and in no case less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, the insured's heirs or legal representative for all sums within the limits which he, she, or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2) or paragraph (3), (1) delete the provision covering damage caused by an uninsured motor vehicle completely, or (2) delete the coverage when a motor vehicle is operated by a natural person or persons designated by name, or (3) agree to provide the coverage in an amount less than that required by subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any of these agreements by any named insured or agreement for the amount of coverage shall be binding upon every insured to whom the policy or endorsement provisions apply while the policy is in force, and shall continue to be so binding with respect to any continuation or renewal of the policy or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer, or with respect to reinstatement of the policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the automobile liability coverage is provided only on an excess or umbrella basis. Nothing in this section shall require that uninsured motorist coverage be offered or provided in any homeowner policy,

personal and residents' liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any other policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(2) The agreement specified in paragraph (1) to delete the provision covering damage caused by an uninsured motor vehicle completely or delete the coverage when a motor vehicle is operated by a natural person or persons designated by name shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Those provisions also permit the insurer and the applicant to delete the coverage completely or to delete the coverage when a motor vehicle is operated by a natural person or persons designated by name. Uninsured motorists coverage insures the insured, his or her heirs, or legal representatives for all sums within the limits established by law, which the person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to the insured from the owner or operator of an uninsured motor vehicle not owned or operated by the insured or a resident of the same household. An uninsured motor vehicle includes an underinsured motor vehicle as defined in subdivision (p) of Section 11580.2 of the Insurance Code."

The agreement may contain additional statements not in derogation of or in conflict with the foregoing. The execution of the agreement shall relieve the insurer of liability under this section while the agreement remains in effect.

(3) The agreement specified in paragraph (1) to provide coverage in an amount less than that required by subdivision (m) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Those provisions also permit the insurer and the applicant to agree to provide the coverage in an amount less then that required by subdivision (m) of Section 11580.2 of the Insurance Code but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his or her heirs, or legal representatives for all sums within the limits established by law, which the person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to the insured from the owner or operator of an uninsured motor vehicle not owned or operated by the insured or a resident of the same household. An uninsured motor vehicle includes an underinsured motor vehicle as defined in subdivision (p)

of Section 11580.2 of the Insurance Code."

The agreement may contain additional statements not in derogation of or in conflict with this paragraph. However, it shall be presumed that an application for a policy of bodily injury liability insurance containing uninsured motorist coverage in an amount less than that required by subdivision (m), signed by the named insured and approved by the insurer, with a policy effective date after January 1, 1985, shall be a valid agreement as to the amount of uninsured motorist coverage to be provided.

(b) As used in subdivision (a), "bodily injury" includes sickness or disease, including death, resulting therefrom; "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in subdivision (a); as used in subdivision (a) if the named insured is an individual "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; as used in subdivision (a), if the named insured is an entity other than an individual, "insured" means any person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply. As used in this subdivision, "individual" shall not include persons doing business as corporations, partnerships, or associations. As used in this subdivision "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his or her permission or consent, express or implied, and any other automobile not owned by or furnished for the regular use of the named insured or any resident of the same household, or by a natural person or persons for whom coverage has been deleted in accordance with subdivision (a) while being operated by the named insured or his or her spouse if a resident of the same household, but "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance. As used in this section, "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is the applicable insurance or bond but the company writing the insurance or bond denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or an

"underinsured motor vehicle" as defined in subdivision (p), or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of the automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his or her behalf has reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either to the sheriff of the county where the accident occurred or to the local headquarters of the California Highway Patrol, and has filed with the insurer within 30 days thereafter a statement under oath that the insured or his or her legal representative has or the insured's heirs have a cause of action arising out of the accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, "uninsured motor vehicle" shall not include a motor vehicle owned or operated by the named insured or any resident of the same household or self-insured within the meaning of the Financial Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer while located for use as a residence or premises and not as a vehicle, or any equipment or vehicle designed or modified for use primarily off public roads, except while actually upon public roads.

As used in this section, "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of the accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of the coverage, the insurer making the payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of the person against the insolvent insurer.

Nothing in this section is intended to exclude from the definition of an uninsured motor vehicle any motorcycle or private passenger type four wheel drive motor vehicle if that vehicle was subject to and failed to comply with the Financial Responsibility Law of this state.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from a motor vehicle other than the described motor vehicle if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his or her representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured or leased to an insured under a written contract for a period of six months or longer, unless the occupied vehicle is an insured motor vehicle. "Motor vehicle" as used in this paragraph means any self-propelled vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(8) To bodily injury of the insured while occupying a motor vehicle rented or leased to the insured for public or livery purposes.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to the insured under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and the damages shall be prorated between the applicable coverages as the limits of each coverage bear to the total of the limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him or her, the damages which the insured shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under the automobile medical payment insurance.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any

action or proceeding between (i) the insured, his or her insurer, his or her legal representative, or his or her heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, the claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) the claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue therein for purposes of issuance of a subpoena by an attorney of a party to the arbitration under Section 1985 of the Code of Civil Procedure. Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any proper court to which application is first made by either the insured or the insurer under Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under Article 3 with respect to the same accident, subject, however, to the right of the court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) Paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure is not applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section limits the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom the claim was paid against any person legally liable for the injury or death to the extent that payment was made. The action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he or she may be entitled under any other insurance coverage applicable; nor shall payment under this section to the insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him or her, his or her executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part, including any amounts tendered to the insured as advance payment on behalf of the other person by the insurer providing the underlying liability insurance.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless one of the following actions have been taken within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction.

(2) Agreement as to the amount due under the policy has been concluded.

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and the claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to the injury or death. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date the written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident.

(n) Underinsured motorist coverage shall be offered with limits equal to the limits of liability for the insured's uninsured motorist limits in the underlying policy, and may be offered with limits in excess of the uninsured motorist coverage. For the purposes of this section, uninsured and underinsured motorist coverage shall be offered as a single coverage. However, an insurer may offer coverage for damages for bodily injury or wrongful death from the owner or operator of an underinsured motor vehicle at greater limits than an uninsured motor vehicle.

(o) If an insured has failed to provide an insurer with wage loss information or medical treatment record releases within 15 days of the insurer's request or has failed to submit to a medical examination

arranged by the insurer within 20 days of the insurer's request, the insurer may, at any time prior to 30 days before the actual arbitration proceedings commence, request, and the insured shall furnish, wage loss information or medical treatment record releases, and the insurer may require the insured, except during periods of hospitalization, to make himself or herself available for a medical examination. The wage loss information or medical treatment record releases shall be submitted by the insured within 10 days of request and the medical examination shall be arranged by the insurer no sooner than 10 days after request, unless the insured agrees to an earlier examination date, and not later than 20 days after the request. If the insured fails to comply with the requirements of this subdivision, the actual arbitration proceedings shall be stayed for at least 30 days following compliance by the insured. The proceedings shall be scheduled as soon as practicable following expiration of the 30-day period.

(p) This subdivision applies only when bodily injury, as defined in subdivision (b), is caused by an underinsured motor vehicle. If the provisions of this subdivision conflict with subdivisions (a) through (o), the provisions of this subdivision shall prevail.

(1) As used in this subdivision, "an insured motor vehicle" is one that is insured under a motor vehicle liability policy, or automobile liability insurance policy, self-insured, or for which a cash deposit or bond has been posted to satisfy a financial responsibility law.

(2) "Underinsured motor vehicle" means a motor vehicle that is an insured motor vehicle but insured for an amount that is less than the uninsured motorist limits carried on the motor vehicle of the injured person.

(3) This coverage does not apply to any bodily injury until the limits of bodily injury liability policies applicable to all insured motor vehicles causing the injury have been exhausted by payment of judgments or settlements, and proof of the payment is submitted to the insurer providing the underinsured motorist coverage.

(4) When bodily injury is caused by one or more motor vehicles, whether insured, underinsured, or uninsured, the maximum liability of the insurer providing the underinsured motorist coverage shall not exceed the insured's underinsured motorist coverage limits, less the amount paid to the insured by or for any person or organization that may be held legally liable for the injury.

(5) The insurer paying a claim under this subdivision shall, to the extent of the payment, be entitled to reimbursement or credit in the amount received by the insured from the owner or operator of the underinsured motor vehicle or the insurer of the owner or operator.

(6) If the insured brings an action against the owner or operator of an underinsured motor vehicle, he or she shall forthwith give to the insurer providing the underinsured motorist coverage a copy of the complaint by personal service or certified mail. All pleadings and depositions shall be made available for copying or copies furnished the insurer, at the insurer's expense, within a reasonable time.

(7) Underinsured motorist coverage shall be included in all policies of bodily injury liability insurance providing uninsured motorist coverage issued or renewed on or after July 1, 1985. Notwithstanding this section, an agreement to delete uninsured motorist coverage completely, or with respect to a person or persons designated by name, executed prior to July 1, 1985, shall remain in full force and effect.

(q) Regardless of the number of vehicles involved whether insured or not, persons covered, claims made, premiums paid or the number of premiums shown on the policy, in no event shall the limit of liability for two or more motor vehicles or two or more policies be added together, combined, or stacked to determine the limit of insurance coverage available to injured persons.

SEC. 2. The amendments to Section 11580.2 made by this act shall only affect coverage with respect to the use of any motor vehicle that is limited to the contingent liability arising out of the use of nonowned motor vehicles offered, issued, or delivered on or after January 1, 1991, and shall not affect those coverages that were in force prior to that date, including coverage in force prior to that date that is renewed.

CHAPTER 683

An act to add Sections 11011.20 and 53086 to the Government Code, relating to public property.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 11011.20 is added to the Government Code, to read:

11011.20. (a) Any private person or private company which advertises that it provides information or services regarding the sale or purchase of public property of any kind shall prominently indicate in the advertisement and any other presentation that the person or company is not a government official or a government agency.

(b) Failure on the part of any private person or private company to prominently indicate in the advertisement and any other presentation that the person or company is not a government agency shall constitute an unfair business practice within the meaning and for the purposes of Section 17200 of the Business and Professions Code, but is not a crime.

SEC. 2. Section 53086 is added to the Government Code, to read:

53086. (a) Any private person or private company which advertises that it provides information or services regarding the sale or purchase of public property of any kind shall prominently indicate

in the advertisement and any other presentation that the person or company is not a government official or a government agency.

(b) Failure on the part of any private person or private company to prominently indicate in the advertisement and any other presentation that the person or company is not a government agency shall constitute an unfair business practice within the meaning and for the purposes of Section 17200 of the Business and Professions Code, but is not a crime.

CHAPTER 684

An act to add Section 75524 to the Water Code, relating to water systems.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 75524 is added to the Water Code, to read:

75524. Any person or operator who augments the water supplies for use within the United Water Conservation District or a zone or zones thereof, by importing water from sources outside the district, and who stores that water in a basin within the district, may apply to the Board of Directors of the United Water Conservation District for a determination exempting that operator from the payment of any groundwater charge based upon the extraction of that water. The exemption shall be based upon the filing of an application for exemption and submission to the board of reasonable evidence of the following:

(a) The amount of water of acceptable quality imported into the district and spread or injected into a basin within the district.

(b) The portion of that imported water that effectively recharges the basin underlying the zone or zones into which it is injected or percolates.

(c) The amount of water produced by the applicant from the zone or zones overlying the areas effectively recharged by the importation and spreading or injection of that water.

(d) Even if the applicant had not imported and stored the water, it had a separate legal right and the ability to produce the quantity of water for which it seeks exemption, in addition to all other water produced by the applicant from the zone or zones involved.

SEC. 2. Section 1 of this act is necessary because of the large amount of water which is imported into the United Water Conservation District for temporary storage within groundwater basins within the district. This problem is not common to all districts formed under the Water Conservation District Law of 1931. It is therefore hereby declared that a general law cannot be made

applicable and that the enactment of this section as a special law is necessary for the solution of problems existing in the United Water Conservation District.

SEC. 3. Pursuant to Section 13896.2 of the Water Code, the Department of Water Resources is hereby authorized to make grants from the California Safe Drinking Water Bond Fund in accordance with the California Safe Drinking Water Bond Law of 1986 (Chapter 10.7 (commencing with Section 13895) of Division 7 of the Water Code), to the following agency for purposes of financing proposed projects and investigations to identify alternatives for system improvements therefor:

(1) Yreka, City of (Shasta Belle Subdivision Assessment District)

SEC. 4. The Department of Water Resources shall determine eligibility for the amount of any grant authorized in Section 3, in accordance with the California Safe Drinking Water Bond Law of 1988 (Chapter 16 (commencing with Section 14000) of Division 7 of the Water Code) and may make those grants in accordance with the bond law.

SEC. 5. (a) The Legislature hereby finds and declares that, in order to meet the minimum safe drinking water standards, there are critical needs within the entity identified in Section 3 to immediately undertake certain improvements necessary to enable residents of that community to have a dependable and potable water supply.

(b) The Legislature further finds and declares that the water system of the entity identified in Section 3 has critical deficiencies in the areas of treatment, storage, and distribution of water which pose a serious threat to the public health and welfare of all consumers within that community and that the entity is only barely meeting the demand for water within the community.

SEC. 6. 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 685

An act to amend Sections 3451 and 3456 of the Business and Professions Code, relating to hearing aid dispensers, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 3451 of the Business and Professions Code is amended to read:

3451. (a) Licenses issued under this chapter expire at midnight on January 15, 1991. Every permanent license which expires after that date shall expire one year following the assigned renewal date. In order to implement a cyclical renewal program, the population of licensees shall be divided into 12 groups and the licenses of each group shall expire on the last day of each consecutive month.

(b) Notwithstanding other provisions of law, the committee shall establish procedures for the administration of a cyclical renewal program for permanently licensed hearing aid dispensers, to assign renewal dates, to extend or shorten the first license period following January 1, 1991, and to prorate the required initial license or renewal fees in order to implement the renewal program.

(c) To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on a form provided by the committee, accompanied by the prescribed renewal fee.

(d) Temporary license holders shall renew their licenses in accordance with Section 3357, apply for such renewal on a form provided by the committee, accompanied by the prescribed renewal fee for temporary licenses.

SEC. 2. Section 3456 of the Business and Professions Code is amended to read:

3456. The amount of fees and penalties prescribed by this chapter shall be those set forth in this section unless a lower fee is fixed by the committee by resolution passed at a public meeting and approved by the director in accordance with Section 313.1:

(a) The fee for applicants applying for the first time for a license is not more than seventy-five dollars ($75) which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a license; those applicants are entitled to a refund of not more than fifty dollars ($50).

(b) The fee for taking the qualifying examination is not more than seventy-five dollars ($75).

(c) The fee for applicants for a license who have failed a previous examination is not more than seventy-five dollars ($75) for each

succeeding examination.

(d) The fee for renewal of a temporary license is not more than seventy-five dollars ($75) for each renewal. The fee for renewal of a permanent license is not more than two hundred dollars ($200) for each renewal.

(e) The initial permanent license fee is not more than one hundred fifty dollars ($150).

(f) The delinquency fee is twenty-five dollars ($25).

(g) The fee for issuance of a duplicate license for a branch office, or upon loss of an original license or upon change of name authorized by law of a person holding a license under this chapter is fifteen dollars ($15).

(h) The fee for reporting the completion of a continuing education course required for the renewal of a license is not more than fifteen dollars ($15).

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

The Hearing Aid Dispensers Examining Committee will face a deficit in fiscal year 1990–91 and in order to avoid the impending deficit, it is necessary that this act go into immediate effect.

CHAPTER 686

An act to amend Section 40410.5 of the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 40410.5 of the Health and Safety Code is amended to read:

40410.5. (a) There is hereby established within the south coast district a sensitive zone, which shall include the general forecast areas known as the San Gabriel/Pomona Valleys and the Riverside/San Bernardino areas.

(b) In addition to every other requirement for the issuance of a permit, the following requirements shall be applicable to the issuance of a permit by the south coast district for the construction or operation of any stationary source within the sensitive zone:

(1) When emission offsets are required to mitigate the air quality impacts of a stationary source, the offsets shall be secured by the applicant so as to bring about ambient air quality improvements within the sensitive zone. The applicant shall be required to

demonstrate, to the satisfaction of the south coast district, that any emissions reductions acquired from stationary sources operating within the South Coast Air Basin will result in a demonstrable net ambient air quality improvement within the sensitive zone.

(2) In considering an application for a permit to construct or operate a stationary source, the south coast district board shall, in addition to making a finding and determination that the impacts of the stationary source will be mitigated so as to result in a net improvement in ambient air quality within the South Coast Air Basin, also make a finding and determination that the impacts of the stationary source can be mitigated so as to result in a net improvement in ambient air quality within the sensitive zone.

(c) The south coast district board shall adopt rules and regulations to implement this section by January 1, 1991.

(d) The south coast district shall report to the Legislature by January 1, 1992, on the implementation of subdivision (b). This report shall include a description of the impact of the requirements of subdivision (b) on the issuance of permits for the construction or operation of stationary sources within the sensitive zone, and upon air quality within the sensitive zone.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California 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 to provide for air quality improvements within portions of the South Coast Air Basin which have been determined to have acute air pollution problems, thereby protecting the public health and safety, it is necessary that this act take effect immediately.

CHAPTER 687

An act to amend Section 4181 of, and to add Sections 302 and 303 to, the Fish and Game Code, relating to game, and making an appropriation therefor.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990.]

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

SECTION 1. The Legislature finds and declares, as follows:

(a) The Fish and Game Commission is presently authorized pursuant to the Fish and Game Code to determine, on an annual basis, whether to add, amend, repeal, or to continue regulations for the taking of game mammals.

(b) Pursuant to this authority, the commission has annually considered regulations allowing the sport hunting of black bears in California.

(c) In 1989, the Superior Court of the County of Sacramento ruled that, pursuant to Section 207 of the Fish and Game Code, the commission is required to comply with the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, annually, when adding, amending, repealing, or continuing regulations for the hunting of game mammals and that those regulations must be based on adequate scientific data.

(d) The black bear of California, like all fish and wildlife resources, are a valuable resource that belongs in trust to the people; therefore, the proper, scientifically based management of the black bear population is of the utmost importance.

(e) By following existing law relating to depredation hunting of black bears, the Legislature intends, by this act, to ensure that the black bear population is maintained in a healthy and viable condition.

SEC. 2. Section 302 is added to the Fish and Game Code, to read:

302. When adopting regulations pursuant to any authority otherwise vested in the commission by this code, the commission shall annually determine whether to continue, repeal, or amend regulations establishing hunting seasons for black bears. The determination shall include a review of factors which impact the health and viability of the black bear population.

SEC. 3. Section 303 is added to the Fish and Game Code, to read:

303. Prior to adopting a regulation authorizing a special hunting season for black bears for the purpose of curtailing property damage in any specified area, the commission shall comply with Article 2 (commencing with Section 325) of Chapter 3 of Division 1.

SEC. 4. Section 4181 of the Fish and Game Code is amended to read:

4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is being damaged or destroyed or is in danger or being damaged or destroyed by elk, bear, beaver, wild pig, or gray squirrels, may apply to the department for a permit to kill any such mammals. The department, upon satisfactory evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of the mammals under regulations adopted by the commission. Mammals so taken shall not be sold, nor shipped from the premises on which they are taken except under instructions from the department. No iron- or steel-jawed or any type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any type may be used to take any gray squirrel pursuant to this section. The department shall designate the type of trap to be used to insure the most humane method is used to trap gray squirrels. The department may require trapped squirrels to be released in parks or other nonagricultural areas. It shall be unlawful for any person to violate the terms of any permit issued under the provisions of this section.

(b) The permit issued for taking bears pursuant to subdivision (a) shall contain the following facts:

(1) Why the issuance of the permit was necessary.

(2) What efforts were made to solve the problem without killing the bears.

(3) What corrective actions should be implemented to prevent reoccurrence.

CHAPTER 688

An act to amend Section 20102 of the Public Contract Code, relating to public construction.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 20102 of the Public Contract Code is amended to read:

20102. Notwithstanding any other provision of this part to the contrary, where plans and specifications have been prepared by a public agency, whose activities are subject to this part, in order for a public project to be put out for formal or informal bid, and, subsequently, the public agency elects to perform the work by day's labor, the public agency shall perform the work in strict accordance with these same plans and specifications.

Revisions of the plans and specifications may be made once a justification detailing the specific reasons for the change or changes has been approved by the public agency or its project director and

a copy of the change and its justification is placed in the project file.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 689

An act to amend Section 18210 of the Financial Code, relating to industrial loan companies.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 18210 of the Financial Code is amended to read:

18210. (a) Except as provided in Sections 18205.5 and 18209 and subject to subdivisions (b) and (d), an industrial loan company shall not make any loan or purchase or discount any note secured primarily by real property unless the loan or other obligation is repayable in substantially equal weekly, semimonthly, monthly, or quarterly installments during its term, which shall not exceed 30 years and 30 days from the date the loan or other obligation is made or acquired by the company. However, an industrial loan company may make loans secured by first trust deeds on real property containing single family, or one to four residential, units provided that the repayment period for each loan does not exceed 40 years and 30 days from the date the loan is made by the company. All loans with repayment periods in excess of 30 years and 30 days shall not exceed in the aggregate 5 percent of all outstanding loans and obligations of the company.

(b) Any consumer loan or any purchase or discount of any consumer obligation having a term in excess of three years from the date the loan or other obligation is made or acquired by the company shall be secured solely by real property or solely by personal property. However, if the original principal amount of the consumer loan or obligation is twenty thousand dollars ($20,000) or more, then the loan or obligation shall be secured solely by real property or

solely by personal property, or by both real property and personal property. All loans and obligations made and purchased pursuant to this subdivision shall be repayable in installments and within a term not to exceed the limitations set forth in subdivision (a), except that consumer loans or obligations secured solely by personal property shall have a term not to exceed the term provided for in Section 18205 and except as otherwise may be provided for in Sections 18207, 18208, and 18209.

(c) Notwithstanding any other provision of this division, an industrial loan company may make loans and acquire or discount obligations having a term in excess of three years secured primarily by real property pursuant to subdivision (a) or secured solely or primarily by real property pursuant to subdivision (b), provided that all of the loans and obligations in excess of three years shall not in the aggregate exceed 70 percent of the industrial loan company's total assets.

(d) (1) In order to ensure the safety and soundness of industrial loan companies and to avoid an unreasonable concentration of loans and obligations that could result in balloon payments, all loans and obligations specified in subdivision (c) with a term in excess of 10 years and 30 days shall be repaid in substantially equal weekly, semimonthly, monthly, or quarterly installments during their term.

(2) In the event paragraph (1) is held invalid by any court of competent jurisdiction as preempted by, or in violation of, any federal law, then the aggregate of all loans and obligations having a term in excess of 10 years and 30 days secured solely or primarily by real property and having other than substantially equal weekly, semimonthly, monthly or quarterly installments during their term shall not exceed 1 percent of an industrial loan company's assets.

CHAPTER 690

An act to amend Sections 50515 and 50530 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 50515 of the Health and Safety Code is amended to read:

50515. As used in this chapter:

(a) "Housing" includes, but is not limited to, manufactured housing.

(b) "Fund" means the Rural Predevelopment Loan Fund which is replenished continuously by repayments of principal on loans made from the fund.

(c) "Predevelopment loan" means a loan for required expenses, other than administrative and construction, which are incurred by eligible sponsors in the process of, and prior to, securing long-term financing for production, conversion, preservation, or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. The purposes for which predevelopment loans may be made include, but are not limited to, the costs of, or the costs associated with, land purchase or options to buy land; or options or deposits to buy or preserve existing government-assisted rental housing for the purpose of preserving the affordability of the units; professional services such as architectural, engineering, or legal services; permit or application fees; and bonding, site preparation, related water or sewer development, or material expenses. In addition, the loans may be made for the purpose of extending the time period for exercising an option or extending the time period for repayment of an advance previously obtained. Such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(d) "Land purchase loan" means a loan for the costs incurred by an eligible sponsor in obtaining an option on, or purchasing suitable land for, the future development of assisted housing, including, but not limited to, costs associated with transfer of title, appraisals, payment of property taxes, surveys, and necessary maintenance of the land.

(e) "Eligible sponsors" means local governmental agencies or nonprofit corporations, including cooperative housing corporations.

SEC. 2. Section 50530 of the Health and Safety Code is amended to read:

50530. As used in this chapter:

(a) "Housing" includes, but is not limited to, manufactured housing.

(b) "Predevelopment loan" means a loan for required expenses, other than administrative and construction, which are incurred by eligible sponsors in the process of, and prior to, securing long-term financing for construction, conversion, preservation, or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. The purposes for which predevelopment loans may be made include, but are not limited to, the costs of, or the costs associated with, land purchase or options to buy land; options or deposits to buy or preserve existing government-assisted rental housing for the purpose of preserving the affordability of the units; professional services such as architectural, engineering, or legal services; permit or application fees; and bonding, site preparation, related water or sewer development, or material expenses. In addition, the loans may be made for the purpose of extending the time for exercising an option or extending the time period for repayment of an advance previously obtained. Such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(c) "Fund" means the Urban Predevelopment Loan Fund which is replenished continuously by repayments of principal on loans made from the fund.

(d) "Land purchase loan" means a loan for the costs incurred by an eligible sponsor in obtaining an option on, or purchasing suitable land for, the future development of assisted housing, including, but not limited to, costs associated with transfer of title, appraisals, payment of property taxes, surveys, and necessary maintenance of the land.

(e) "Eligible sponsors" means local governmental agencies or nonprofit corporations, including cooperative housing corporations.

CHAPTER 691

An act to amend Section 14105.97 of the Welfare and Institutions Code, relating to hospitals, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. The Legislature finds and declares that problems associated with the annual financial disclosure data that had been intended for use in the implementation of Chapter 976 of the Statutes of 1988, necessitate a technical amendment to the authorizing statute. In addition, changes in requirements for the provision of hospital data to the state enacted pursuant to Chapter 1331 of the Statutes of 1989, require further updating.

SEC. 2. Section 14105.97 of the Welfare and Institutions Code is amended to read:

14105.97. (a) The department shall develop an outpatient disproportionate provider factor for each hospital during the first quarter of each year using the most recent annual disclosure data administered by the Office of Statewide Health Planning and Development. This subdivision shall only apply to payments made to disproportionate share hospitals through June 30, 1990.

(b) The factor described in subdivision (a) shall be the proportion of total outpatient gross revenue attributable to Medi-Cal gross revenue plus "other" outpatient deductions from revenue, to total outpatient gross revenue. Hospitals that previously did not submit the necessary data elements shall be permitted to amend their most recent report or submit more recent data prior to implementation of this section. An outpatient disproportionality threshold shall be established by the department at the mean, which in the most recent 1984–85 data is 22.5 percent of total outpatient gross revenue. This methodology shall only apply to payments made to disproportionate

share hospitals through June 30, 1990.

(c) The department shall develop an outpatient disproportionate factor for each hospital on an annual basis. That factor shall be the ratio of total Medi-Cal outpatient gross revenue plus "other" outpatient deductions from revenue, as those deductions are described in the most recent version of the Office of Statewide Health Planning and Development Quarterly and Financial Disclosure Report, to total outpatient gross revenue. The appropriate calculation of the outpatient disproportionate factor shall exclude Medicare and Medi-Cal contractual allowances, and shall not take into account any offsetting subsidies, including medically indigent services program funds. Hospitals exceeding the statewide mean shall receive supplemental payments based on their relative disproportionality. This subdivision shall only apply to payments made to disproportionate share hospitals on or after July 1, 1990. This subdivision is not intended to result in an increase in the total amount appropriated as compared to the amount that would have been appropriated if subdivisions (a) and (b) had continued to be applicable.

(d) Notwithstanding subdivision (c), the disproportionate share payments made to each children's hospital on or after July 1, 1990, shall be no less than they would have received if subdivisions (a) and (b) had continued to be applicable.

(e) The calculation of a hospital's outpatient disproportionate share factor pursuant to subdivisions (b) and (c) shall not take into account any funds received by the hospital pursuant to Part 4.7 (commencing with Section 16900).

(f) The hospital outpatient augmentation levels shall be incorporated into the rate adjustment made subsequent to enactment of the annual Budget Act and shall not exceed usual and customary charges.

(g) Augmentation rates shall be applied to hospitals with all inclusive rates at the point of final audit settlement and shall be included in subsequent interim reimbursement rates.

(h) The director shall adopt regulations implementing this section as emergency regulations, if so required, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. Notwithstanding 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 director in order to implement this act shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

The director may, on an emergency basis as provided in this subdivision, periodically amend the regulations for the implementation of this section in order to refine, improve, make

specific or otherwise enhance the administration and the intent of this section, or to limit expenditures to stay within the amounts appropriated.

(i) The department shall seek federal approval for this section, if necessary.

(j) Subject to the limitations contained in this section, rate increases granted pursuant to this section shall become effective October 1, 1988.

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 equitable and achievable the development of an outpatient disproportionate provider factor for purposes of Medi-Cal reimbursement, which is authorized under existing law, thus aiding critically needed disproportionate share facilities in providing access to health care at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 692

An act to amend Sections 17300 and 22511.7 of, and to repeal and add Section 22510 of, the Vehicle Code, relating to highways.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 17300 of the Vehicle Code is amended to read:

17300. (a) Any person who willfully or negligently damages any street or highway, or its appurtenances, including, but not limited to, guard rails, signs, traffic signals, snow poles, and similar facilities, is liable for the reasonable cost of the repair or replacement thereof.

(b) Any person who willfully or negligently causes or permits the contents of any vehicle to be deposited upon any street or highway, or its appurtenances, is liable for the reasonable costs of removing those contents from the street or highway or its appurtenances.

(c) The liability stated in this section also applies to an owner of a vehicle operated with the owner's permission, as provided in Article 2 (commencing with Section 17150), and includes liability for the reasonable cost of necessary safety precautions, including, but not limited to, warning traffic, the removal of debris resulting from accidents, the removal of any materials, or providing detours.

(d) The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, may present claims for liability under this section, bring actions for recovery

thereon, and settle and compromise, in their discretion, claims arising under this section.

(e) If the Department of Transportation or a local authority provides services on a highway outside its jurisdiction, at the request of the department or the local authority which has jurisdiction over that highway, the department or the local authority may present a claim for liability for rendering this service under this section, bring actions for recovery thereon, and, in its discretion, settle and compromise the claim.

SEC. 2. Section 22510 of the Vehicle Code is repealed.

SEC. 3. Section 22510 is added to the Vehicle Code, to read:

22510. (a) Local authorities may, by ordinance or resolution, prohibit or restrict the parking or standing of vehicles on designated streets or highways within their jurisdiction, or portions thereof, for the purpose of snow removal. The ordinance or resolution shall not be effective until the street or highway, or portion thereof, has been sign-posted in accordance with the uniform standards and specifications of the Department of Transportation, or until the local authorities have caused to be posted in a conspicuous place at each entrance to the street or highway, a notice not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, setting forth the days parking is prohibited. The signs shall, at a minimum, be placed on each affected street or highway, at the boundary of the local authority, and at the beginning and end of each highway or highway segment included in that area. No person shall stop, park, or leave standing any vehicle, whether attended or unattended, within the area marked by signs, except when necessary to avoid conflict with other traffic or in compliance with the directions of a traffic or peace officer.

(b) No ordinance or resolution authorized by subdivision (a) which affects a state highway shall be effective until it is submitted to, and approved by, the Department of Transportation.

(c) The Department of Transportation, with respect to state highways, may restrict the parking or standing of vehicles for purposes of snow removal. The restrictions shall not be effective until the highway, or portion thereof, has been posted with signs in accordance with the uniform standards and specifications of the department. No person shall stop, park, or leave standing any vehicle, whether attended or unattended, within the area marked by parking restriction signs, except when necessary to avoid conflict with other traffic or in compliance with the directions of a traffic or peace officer.

SEC. 4. Section 22511.7 of the Vehicle Code is amended to read:

22511.7. In addition to Section 22511.8 for offstreet parking, a local authority may, by ordinance or resolution, designate parking spaces for the exclusive use of any vehicle which displays either a distinguishing license plate or a placard issued pursuant to Section 22511.5. Whenever a local authority so designates a parking space, it shall be indicated by blue paint on the curb or edge of the paved

portion of the street adjacent to the space. In addition to blue paint, the space shall also be indicated by signs or other suitable means. In areas where snow or ice may obscure the blue paint, a clearly visible sign appropriately designating the space is sufficient for purposes of this section.

This section does not restrict the privilege granted to disabled persons and disabled veterans by Section 22511.5.

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, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 693

An act to amend Section 4514 of the Welfare and Institutions Code, relating to confidentiality of information and records.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons, whether employed by a regional center or state developmental center, or not, in the provision of intake, assessment, and services or appropriate referrals. The consent of the person with a developmental disability, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by regional center or state developmental center personnel to a professional not employed by the regional center or state developmental center, or a program not vendored by a regional

center or state developmental center.

(b) When the person with a developmental disability, who has the capacity to give informed consent, designates individuals to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(c) To the extent necessary for a claim, or for a claim or application to be made on behalf of a person with a developmental disability for aid, insurance, government benefit, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, conservator, or limited conservator with access to confidential records, designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. These rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

"_____
Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or the person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of the research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services so those persons who received services are identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

"

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by the committee.

(i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1370.1 and 1001.22 of the Penal Code, Section 6502 of the Welfare and Institutions Code, and Section 56557 of Title 17 of the California Code of Regulations.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information which has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director or designee determines that the information is relevant to the evaluation. The consent shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on

"multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident which is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of

Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (1) the person with a developmental disability has been reported lost or missing; or (2) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in Section 12020 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her treatment unless relevant to the crime involved.

This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, or Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(5) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his

or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

(s) To an agency mandated to investigate a report of abuse filed pursuant to either Section 11164 of the Penal Code or Section 15630 of the Welfare and Institutions Code for the purposes of either a mandated or voluntary report or when those agencies request information in the course of conducting their investigation.

(t) When a person with developmental disabilities, or the parent, guardian, or conservator of a person with developmental disabilities who lacks capacity to consent, fails to grant or deny a request by a regional center or state developmental center to release information or records relating to the person with developmental disabilities within a reasonable period of time, the director of the regional or developmental center, or his or her designee, may release information or records on behalf of that person provided both of the following conditions are met:

(1) Release of the information or records is deemed necessary to protect the person's health, safety, or welfare.

(2) The person, or the person's parent, guardian, or conservator, has been advised annually in writing of the policy of the regional center or state developmental center for release of confidential client information or records when the person with developmental disabilities, or the person's parent, guardian, or conservator, fails to respond to a request for release of the information or records within a reasonable period of time. A statement of policy contained in the client's individual program plan shall be deemed to comply with the notice requirement of this paragraph.

SEC. 2. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons, whether employed by a regional center or state developmental center, or not, in the provision of intake, assessment, and services or appropriate referrals. The consent of the person with a developmental disability, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by regional center or state developmental center personnel to a professional not employed by the regional center or state

developmental center, or a program not vendored by a regional center or state developmental center.

(b) When the person with a developmental disability, who has the capacity to give informed consent, designates individuals to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(c) To the extent necessary for a claim, or for a claim or application to be made on behalf of a person with a developmental disability for aid, insurance, government benefit, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, conservator, or limited conservator with access to confidential records, designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. These rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

"_____
Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or the person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of the research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services so those persons who received services are identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

"

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by the committee.

(i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1370.1 and 1001.22 of the Penal Code, Section 6502 of the Welfare and Institutions Code, and Section 56557 of Title 17 of the California Code of Regulations.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information which has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director or designee determines that the information is relevant to the evaluation. The consent shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on

"multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident which is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of, and Chapter 3 (commencing with Section 1500) of, Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of

Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (1) the person with a developmental disability has been reported lost or missing; or (2) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in Section 12020 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her treatment unless relevant to the crime involved.

This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, or Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

(r) (1) To the protection and advocacy agency established in this state to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act, as amended, contained in Chapter 75 (commencing with Section 6000) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with developmental disabilities, as defined in Section 6001(5) of Title 42 of the United States Code.

(2) Access to information and records to which paragraph (1) applies shall be provided in accord with Division 4.7 (commencing with Section 4900).

(s) To an agency mandated to investigate a report of abuse filed pursuant to either Section 11164 of the Penal Code or Section 15630 of the Welfare and Institutions Code for the purposes of either a mandated or voluntary report or when those agencies request information in the course of conducting their investigation.

(t) When a person with developmental disabilities, or the parent, guardian, or conservator of a person with developmental disabilities who lacks capacity to consent, fails to grant or deny a request by a regional center or state developmental center to release information or records relating to the person with developmental disabilities within a reasonable period of time, the director of the regional or developmental center, or his or her designee, may release information or records on behalf of that person provided both of the following conditions are met:

(1) Release of the information or records is deemed necessary to protect the person's health, safety, or welfare.

(2) The person, or the person's parent, guardian, or conservator, has been advised annually in writing of the policy of the regional center or state developmental center for release of confidential client information or records when the person with developmental disabilities, or the person's parent, guardian, or conservator, fails to respond to a request for release of the information or records within a reasonable period of time. A statement of policy contained in the client's individual program plan shall be deemed to comply with the notice requirement of this paragraph.

SEC. 3. Section 2 of this bill incorporates amendments to Section 4514 of the Welfare and Institutions Code proposed by both this bill and SB 2740. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1991, (2) each bill amends Section 4514 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 2740, in which case Section 1 of this bill shall not become operative.

CHAPTER 694

An act to amend Section 4550 of, to repeal Sections 980, and 4551 of, and to repeal Chapter 2.5 (commencing with Section 4150) of Division 5 of Title 1 of, the Government Code, and to amend Sections 20102, 20150.10, 20341, 22038, and 22039 of, to add Sections 7103, 7104, 9202, and 9203 to, and to repeal Section 20103 of, the Public Contract Code, relating to public projects.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 980 of the Government Code is repealed.

SEC. 2. Chapter 2.5 (commencing with Section 4150) of Division 5 of Title 1 of the Government Code is repealed.

SEC. 3. Section 4550 of the Government Code is amended to read:

4550. As used in this chapter:

(a) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the state or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

(b) "Public purchasing body" means the state or the subdivision or agency making a public purchase.

SEC. 4. Section 4551 of the Government Code is repealed.

SEC. 5. Section 7103 is added to the Public Contract Code, to read:

7103. (a) As used in this section:

(1) "Public works contract" means a contract awarded through competitive bids by the state or any of its political subdivisions or public agencies, on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code, for the erection, construction, alteration, repair, or improvement of any structure, building, road, or other improvement of any kind.

(2) "Awarding body" means the state or the subdivision or agency awarding a public works contract.

(b) In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.

(c) The provisions of subdivision (b) shall be included in full in the specifications for the public works contract or in the general provisions incorporated therein and shall be included in full in the public works contract or in the general provisions incorporated therein.

SEC. 6. Section 7104 is added to the Public Contract Code, to read:

7104. (a) Construction contracts of public agencies shall not require the contractor to be responsible for the cost of repairing or

restoring damage to the work, which damage is determined to have been proximately caused by an act of God, in excess of 5 percent of the contracted amount, provided, that the work damaged is built in accordance with accepted and applicable building standards and the plans and specifications of the awarding authority. However, contracts may include provisions for terminating the contract. The requirements of this section shall not be mandatory as to construction contracts financed by revenue bonds. This section shall not prohibit a public agency from requiring that a contractor obtain insurance to indemnify the public agency for any damage to the work caused by an act of God if the insurance premium is a separate bid item. If insurance is required, requests for bids issued by public agencies shall set forth the amount of the work to be covered and the contract resulting from the requests for bids shall require that the contractor furnish evidence of satisfactory insurance coverage to the public agency prior to execution of the contract.

(b) For the purposes of this section:

(1) "Public agency" shall include the state, the Regents of the University of California, a city, county, district, public authority, public agency, municipal utility, and any other political subdivision or public corporation of the state.

(2) "Acts of God" shall include only the following occurrences or conditions and effects: earthquakes in excess of a magnitude of 3.5 on the Richter Scale and tidal waves.

(c) Public agencies may make changes in construction contracts for public improvements in the course of construction to bring the completed improvements into compliance with environmental requirements or standards established by state and federal statutes and regulations enacted after the contract has been awarded or entered into. The contractor shall be paid for the changes in accordance with the provisions of the contract governing payment for changes in the work or, if no provisions are set forth in the contract, payment shall be as agreed to by the parties.

(d) (1) Where authority to contract is vested in any public agency, excluding the state, the authority shall include the power, by mutual consent of the contracting parties, to terminate, amend, or modify any contract within the scope of such authority.

(2) Paragraph (1) of this subdivision shall not apply to contracts entered into pursuant to any statute expressly requiring that contracts be let or awarded on the basis of competitive bids. Contracts of public agencies, excluding the state, required to be let or awarded on the basis of competitive bids pursuant to any statute may be terminated, amended, or modified only if the termination, amendment, or modification is so provided in the contract or is authorized under provision of law other than this subdivision. The compensation payable, if any, for amendments and modifications shall be determined as provided in the contract. The compensation payable, if any, in the event the contract is so terminated shall be determined as provided in the contract or applicable statutory

provision providing for the termination.

(3) Contracts of public agencies may include provisions for termination for environmental considerations at the discretion of the public agencies.

SEC. 7. Section 9202 is added to the Public Contract Code, to read:

9202. (a) Whenever a request for payment from the state or a local entity pursuant to the terms of a contract for the construction of a public works project, as defined in Section 1720 of the Labor Code, is properly filed and the validity of the claim is not disputed or has been settled or agreed upon, payment of the claim by the disbursing officer of the state or local public entity shall include interest at the legal rate of 7 percent per annum commencing on the date upon which the claim was submitted if payment has not been made by the 60th day after the proper submission of the claim.

(b) If a request for payment has not been properly filed at an earlier date, then the request shall be deemed to be properly filed on the next business day after the contractor provides written notification to the public entity's designated jobsite representative that the contractor accepts the proposed final estimate as prepared by the public entity. This subdivision shall not apply to the California State University.

SEC. 8. Section 9203 is added to the Public Contract Code, to read:

9203. Payment on any contract with a local agency for the creation, construction, alteration, repair, or improvement of any public structure, building, road, or other improvement, of any kind which will exceed in cost a total of five thousand dollars ($5,000), shall be made as the legislative body prescribes upon estimates approved by the legislative body, but progress payments shall not be made in excess of 95 percent of the percentage of actual work completed plus a like percentage of the value of material delivered on the ground or stored subject to, or under the control of, the local agency, and unused. The local agency shall withhold not less than 5 percent of the contract price until final completion and acceptance of the project. However, at any time after 50 percent of the work has been completed, if the legislative body finds that satisfactory progress is being made, it may make any of the remaining progress payments in full for actual work completed.

SEC. 9. Section 20102 of the Public Contract Code is amended to read:

20102. Notwithstanding any other provision of this part to the contrary, where plans and specifications have been prepared by a public agency, whose activities are subject to this part, in order for a public project to be put out for formal or informal bid, and, subsequently, the public agency elects to perform the work by day's labor, the public agency shall perform the work in strict accordance with these same plans and specifications.

Revisions of the plans and specifications may be made once a

justification detailing the specific reasons for the change or changes has been approved by the public agency or its project director and a copy of the change and its justification is placed in the project file.

SEC. 10. Section 20103 of the Public Contract Code is repealed.

SEC. 11. Section 20341 of the Public Contract Code is amended to read:

20341. (a) Contracts for construction in excess of twenty thousand dollars ($20,000) shall be awarded to the lowest responsible bidder submitting a responsive bid after competitive bidding, except in emergency declared by the vote of two-thirds of the membership of the board. When the expected construction contract exceeds one thousand dollars ($1,000) and does not exceed twenty thousand dollars ($20,000), the board shall seek a minimum of three quotations, either written or oral, which permit prices and other terms to be compared.

(b) If no bids are received, the project may be performed by a negotiated contract.

SEC. 12. Section 20150.10 of the Public Contract Code is amended to read:

20150.10. Notwithstanding the provisions of Section 20150.9, on any project which is less than seventy-five thousand dollars ($75,000), if, after the first invitation for bids, all bids are rejected, the county may, after reevaluating its cost estimates of the project, pass a resolution by a four-fifths vote of its board of supervisors declaring that the project can be performed more economically by county personnel, or that in its opinion a contract to perform the project can be negotiated with the original bidders at a lower price than that in any of the bids, or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, it may have the project done in the manner stated without further complying with this article.

SEC. 13. Section 22038 of the Public Contract Code is amended to read:

22038. (a) In its discretion, the public agency may reject any bids presented. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the public agency shall have the option of either of the following:

(1) Abandoning the project or readvertising for bids in the manner described by this article.

(2) By passage of a resolution by a four-fifths vote of its governing body declaring that the project can be performed more economically by the employees of the public agency, may have the project done by force account without further complying with this article.

(b) If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses.

(c) If no bids are received through the formal or informal procedure, the project may be performed by the employees of the public agency by force account, or negotiated contract without

further complying with this article.

This section shall become operative on January 1, 1991.

SEC. 14. Section 22039 of the Public Contract Code is amended to read:

22039. The governing body of the public agency shall adopt plans, specifications, and working details for all public projects exceeding the amount specified in subdivision (c) of Section 22032.

SEC. 15. 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 695

An act to amend Sections 24202 and 25658 of, and to add Section 25658.4 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 24202 of the Business and Professions Code is amended to read:

24202. (a) All state and local law enforcement agencies shall immediately notify the department of any arrests made by them for violations over which the department has jurisdiction which involve a licensee or licensed premises. Notice shall be given within 10 days of the arrest. The department shall promptly cause an investigation to be made as to whether grounds exist for suspension or revocation of the license or licenses of the licensee.

(b) The department may not open or add an entry to a file or initiate an investigation of a licensee or suspend or revoke a license (1) solely because the licensee or an agent acting on behalf of the licensee has reported to a state or local law enforcement agency that suspected controlled substance violations have taken place on the licensed premises or (2) solely based on activities constituting violations described in such a report, unless the violations reported occurred with the actual knowledge and willful consent of the

licensee.

SEC. 2. Section 25658 of the Business and Professions Code is amended to read:

25658. (a) Every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.

(b) Any person under the age of 21 years who purchases any alcoholic beverage, or any person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.

(c) Any on-sale licensee who knowingly permits a person under the age of 21 years to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor.

(d) Any person who violates this section shall be punished by a fine of not less than two hundred fifty dollars ($250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of fine and community service as determined by the court.

SEC. 3. Section 25658.4 is added to the Business and Professions Code, to read:

25658.4. (a) On and after January 1, 1992, no clerk shall make an off-sale of alcoholic beverages unless the clerk executes under penalty of perjury on the first day he or she makes such a sale an application and acknowledgment. The application and acknowledgment shall be in a form understandable to the clerk.

(1) The department shall specify the form of the application and acknowledgment which shall include at a minimum a summary of this division pertaining to the following:

(A) The prohibitions contained in Sections 25658, 25658.2, and 25658.5 pertaining to the sale to, and purchase of, alcoholic beverages by persons under 21 years of age.

(B) Bona fide evidence of majority as provided in Section 25660.

(C) Hours of operation as provided in Article 2 (commencing with Section 25630) of Chapter 16.

(D) The prohibitions contained in subdivision (a) of Sections 25602 and 25602.1 pertaining to sales to intoxicated person.

(E) Sections 23393 and 23394 as they pertain to on-premises consumption of alcoholic beverages in an off-sale premises.

(2) The application and acknowledgment shall also include a statement that the clerk has read and understands the summary, a statement that the clerk has never been convicted of violating this division or, if convicted, an explanation of the circumstances of each conviction, and a statement that the application and acknowledgment is executed under penalty of perjury.

(3) The licensee shall keep the executed application and acknowledgment on the premises at all times and available for

inspection by the department. An application and acknowledgment is valid only at the off-premises for which it is issued and at no other premises. A violation of this subdivision by a licensee constitutes grounds for discipline by the department.

(b) On and after January 1, 1992, the licensee shall post a notice which contains and describes, in concise terms, prohibited sales of alcoholic beverages, a statement that the off-sale seller will refuse to make a sale if the seller reasonably suspects that the Alcoholic Beverage Control Act may be violated, and a statement that a minor who purchases or attempts to purchase alcoholic beverages is subject to suspension or delay in the issuance of his or her driver's license pursuant to Section 13202.5 of the Vehicle Code. The notice shall be posted at an entrance or at a point of sale in the licensed premises or in any other location that is visible to purchasers of alcoholic beverages and to the off-sale seller.

(c) As used in this section:

(1) "Off-sale seller" means any person holding a license issued by the department for off-sale of alcoholic beverages and any person employed by that licensee who in the course of that employment sells alcoholic beverages.

(2) "Clerk" means an off-sale seller who is not a licensee.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 696

An act to amend Sections 632, 633, 633.5, 634, and 635 of the Penal Code, to amend Section 1 of Chapter 909 of the Statutes of 1985, and to add Section 632.6 to the Penal Code, relating to cordless telephones.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 1 of Chapter 909 of the Statutes of 1985 is amended to read:

Sec. 1. This act shall be known and may be cited as the Cordless and Cellular Radio Telephone Privacy Act.

SEC. 2. The Legislature hereby finds and declares all of the following:

(a) Increasing utilization of cordless telephone technology means that persons will be conversing using a technology which cannot guarantee privacy in the same way that it is guaranteed over the wire-based public switched network.

(b) The United States Supreme Court has failed to guarantee persons a reasonable expectation of privacy in conversations made with or to a person using a cordless telephone unit.

(c) There is currently no commercially feasible method to prevent unauthorized third parties from eavesdropping upon private cordless telephone communications.

(d) A citizen's right of privacy should protect him or her from sophisticated forms of surveillance and eavesdropping that use new technological devices and techniques suitable only for appropriating private conversations.

(e) Parties to a cordless telephone communication have a reasonable expectation of privacy which the right of privacy protects, and this act is intended to provide a legal recourse to those persons whose private cordless telephone communications have been maliciously invaded by persons not intended to receive those communications.

(f) It is not the intent of the Legislature in enacting this act to prohibit the manufacture, sale, possession, or use of electronic scanning devices, or radios capable of intercepting or receiving radio frequencies other than, or in addition to, cordless telephone radio frequencies, nor is it the Legislature's intent to prohibit the interception or reception of radio frequencies other than the unauthorized malicious interception or reception of cordless telephone radio frequencies.

SEC. 3. Section 632 of the Penal Code is amended to read:

632. (a) Every person who, intentionally and without the consent of all parties to a confidential communication, by means of any electronic amplifying or recording device, eavesdrops upon or records the confidential communication, whether the communication is carried on among the parties in the presence of one another or by means of a telegraph, telephone, or other device, except a radio, shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment. If the person has previously been convicted of a violation of this section or Section 631, 632.5, 632.6, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

(b) The term "person" includes an individual, business association, partnership, corporation, or other legal entity, and an individual acting or purporting to act for or on behalf of any

government or subdivision thereof, whether federal, state, or local, but excludes an individual known by all parties to a confidential communication to be overhearing or recording the communication.

(c) The term "confidential communication" includes any communication carried on in circumstances as may reasonably indicate that any party to the communication desires it to be confined to the parties thereto, but excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

(d) Except as proof in an action or prosecution for violation of this section, no evidence obtained as a result of eavesdropping upon or recording a confidential communication in violation of this section shall be admissible in any judicial, administrative, legislative, or other proceeding.

(e) This section does not apply (1) to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the acts otherwise prohibited by this section are for the purpose of construction, maintenance, conduct or operation of the services and facilities of the public utility, or (2) to the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of such a public utility, or (3) to any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(f) This section does not apply to the use of hearing aids and similar devices, by persons afflicted with impaired hearing, for the purpose of overcoming the impairment to permit the hearing of sounds ordinarily audible to the human ear.

SEC. 4. Section 632.6 is added to the Penal Code, to read:

632.6. (a) Every person who, maliciously and without the consent of all parties to the communication, intercepts, receives, or assists in intercepting or receiving a communication transmitted between cordless telephones as defined in subdivision (c), between any cordless telephone and a landline telephone, or between a cordless telephone and a cellular telephone shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), by imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment. If the person has been convicted previously of a violation of Section 631, 632, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

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

(1) To any public utility engaged in the business of providing communications services and facilities, or to the officers, employees,

or agents thereof, where the acts otherwise prohibited are for the purpose of construction, maintenance, conduct, or operation of the services and facilities of the public utility.

(2) To the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of the public utility.

(3) To any telephonic communications system used for communication exclusively within a state, county, city and county, or city correctional facility.

(c) As used in this section and in Section 635, "cordless telephone" means a two-way low power communication system consisting of two parts—a "base" unit which connects to the public switched telephone network and a handset or "remote" unit—which are connected by a radio link and authorized by the Federal Communications Commission to operate in the frequency bandwidths reserved for cordless telephones.

SEC. 5. Section 633 of the Penal Code is amended to read:

633. Nothing in Section 631, 632, 632.5, or 632.6 prohibits the Attorney General, any district attorney, or any assistant, deputy, or investigator of the Attorney General or any district attorney, any officer of the California Highway Patrol, any chief of police, assistant chief of police, or police officer of a city or city and county, any sheriff, undersheriff, or deputy sheriff regularly employed and paid as such of a county, or any person acting pursuant to the direction of one of these law enforcement officers acting within the scope of his or her authority, from overhearing or recording any communication which they could lawfully overhear or record prior to the effective date of this chapter.

Nothing in Section 631, 632, 632.5, or 632.6 renders inadmissible any evidence obtained by the above-named persons by means of overhearing or recording any communication which they could lawfully overhear or record prior to the effective date of this chapter.

SEC. 6. Section 633.5 of the Penal Code is amended to read:

633.5. Nothing in Section 631, 632, 632.5, or 632.6 prohibits one party to a confidential communication from recording the communication for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of the crime of extortion, kidnapping, bribery, any felony involving violence against the person, or a violation of Section 653m. Nothing in Section 631, 632, 632.5, or 632.6 renders any evidence so obtained inadmissible in a prosecution for extortion, kidnapping, bribery, any felony involving violence against the person, a violation of Section 653m, or any crime in connection therewith.

SEC. 7. Section 634 of the Penal Code is amended to read:

634. Any person who trespasses on property for the purpose of committing any act, or attempting to commit any act, in violation of Section 631, 632, 632.5, 632.6, or 636 shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), by imprisonment in the county jail not exceeding one year or in the

state prison, or by both that fine and imprisonment. If the person has previously been convicted of a violation of this section or Section 631, 632, 632.5, 632.6, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment.

SEC. 8. Section 635 of the Penal Code is amended to read:

635. (a) Every person who manufactures, assembles, sells, offers for sale, advertises for sale, possesses, transports, imports, or furnishes to another any device which is primarily or exclusively designed or intended for eavesdropping upon the communication of another, or any device which is primarily or exclusively designed or intended for the unauthorized interception or reception of communications between cellular radio telephones or between a cellular radio telephone and a landline telephone in violation of Section 632.5, or communications between cordless telephones or between a cordless telephone and a landline telephone in violation of Section 632.6, shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), by imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment. If the person has previously been convicted of a violation of this section, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

(b) This section does not apply to either of the following:

(1) An act otherwise prohibited by this section when performed by any of the following:

(A) A communication utility or an officer, employee or agent thereof for the purpose of construction, maintenance, conduct, or operation of, or otherwise incident to the use of, the services or facilities of the utility.

(B) A state, county, or municipal law enforcement agency or an agency of the federal government.

(C) A person engaged in selling devices specified in subdivision (a) for use by, or resale to, agencies of a foreign government under terms approved by the federal government, communication utilities, state, county, or municipal law enforcement agencies, or agencies of the federal government.

(2) Possession by a subscriber to communication utility service of a device specified in subdivision (a) furnished by the utility pursuant to its tariffs.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 697

An act to add Section 907 to the Government Code, relating to public agency claims.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 907 is added to the Government Code, to read:

907. A local public entity, as defined in Section 900.4, may offset any delinquent amount due it for services rendered to any other local public entity. The offset may be charged, against any amount reciprocally owing, upon the giving of 30 days advance written notice, if no written dispute is received from the debtor within the 30-day notice period. Notices from the creditor or the debtor shall be made through certified mail.

If the offset would result in the debtor's inability to meet encumbered bonded indebtedness repayments, the debtor shall so state in a written dispute within the time period stated above.

If a dispute notice is received and the dispute is subsequently resolved in favor of the entity to whom an amount is due, interest on the principal amount from the date that amount was originally owing shall be assessed at the legal rate per annum established pursuant to Section 685.010 of the Code of Civil Procedure.

For purposes of this section, an amount reciprocally owing includes any tax revenue collected by a local public entity for disbursement to another local public entity.

CHAPTER 698

An act to amend Section 826 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 826 of the Welfare and Institutions Code is amended to read:

826. (a) After five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, the probation officer may destroy all records and papers in the proceedings concerning the minor.

The juvenile court record, which includes all records and papers, any minute book entries, dockets and judgment dockets, shall be destroyed by order of the court as follows: when the person who is the subject of the record reaches the age of 28 years, if the person was alleged or adjudged to be a person described by Section 300, when the person who is the subject of the record reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601, or when the person reaches the age of 38 years if the person was alleged or adjudged to be a person described by Section 602, unless for good cause the court determines that the juvenile record shall be retained, or unless the juvenile court record is released to the person who is the subject of the record pursuant to this section.

Any person who is the subject of a juvenile court record may by written notice request the juvenile court to release the court record to his or her custody. Wherever possible, the written notice shall include the person's full name, the person's date of birth, and the juvenile court case number. Any juvenile court receiving the written notice shall release the court record to the person who is the subject of the record five years after the jurisdiction of the juvenile court over the person has terminated, if the person was alleged or adjudged to be a person described by Section 300, or when the person reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601, unless for good cause the court determines that the record shall be retained. Exhibits shall be destroyed as provided under Sections 1418, 1418.5, and 1419 of the Penal Code. For the purpose of this section "destroy" means destroy or dispose of for the purpose of destruction. The proceedings in any case in which the juvenile court record is destroyed or released to the person who is the subject of the record pursuant to this section shall be deemed never to have occurred, and the person may reply accordingly to any inquiry about the events in the case.

(b) If an individual whose juvenile court record has been destroyed or released under subdivision (a) discovers that any other agency still retains a record, the individual may file a petition with the court requesting that the records be destroyed. The petition will include the name of the agency and the type of record to be destroyed. The court shall order that such records also be destroyed unless for good cause the court determines to the contrary. The court shall send a copy of the order to each agency and each agency shall destroy records in its custody as directed by the order, and shall advise the court of its compliance. The court shall then destroy the copy of the petition, the order, and the notice of compliance from each agency. Thereafter, the proceedings in such case shall be deemed never to have occurred.

(c) Juvenile court records in juvenile traffic matters, which include all records and papers, any minute book entries, dockets and judgment dockets, may be destroyed after five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, or when the minor reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601. Prior to such destruction the original record may be microfilmed or photocopied. Every such reproduction shall be deemed and considered an original; and a transcript, exemplification or certified copy of any such reproduction shall be deemed and considered a transcript, exemplification or certified copy, as the case may be, of the original.

CHAPTER 699

An act to amend and repeal Section 5600 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 5600 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 1305 of the Statutes of 1988, is amended to read:

5600. (a) This part shall be known and may be cited as the Short-Doyle Act. This part is intended to organize and finance community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. It is furthermore intended to better utilize existing resources at both the state and local levels in order to improve the effectiveness of necessary mental health services; to integrate state-operated and community mental health programs into a unified mental health system; to ensure that all mental health professions be appropriately represented and utilized in the mental health programs; to provide a means for participation by local governments in the determination of the need for and the allocation of mental health resources; to establish a uniform ratio of local and state government responsibility for financing mental health services; and to provide a means of allocating state mental health funds equitably among counties according to community needs.

(b) Available funding for local programs, beyond the current base plus any cost-of-living adjustment granted by the Legislature, shall be allocated to counties based upon relative need, defined and appropriately revised by the department on an annual basis as the percentage of total state population and total state poverty population residing in that county. By January 1, 1987, the

department shall submit to the Legislature data on the actual numbers of persons served and applicants awaiting service in each county to be considered as a part of the formula in the future. However, until equity of funding between counties is achieved, the allocation of funds shall also take into account the difference between relative needs, as defined above, and current relative resources, defined as the percentage of total state mental health funding currently allocated thereto, in such a manner that progress toward equity is reasonably assured provided, however, that no county allocation may be decreased for this purpose.

(c) If state financing problems require a decrease in the department's total allocation and the amount available for local programs, the director shall distribute funds to each county based upon a method which takes into primary account the issue of equity of funding among the counties.

(d) By December 31 of each year, the department shall make available information on the progress which has been made in achieving equity between counties as defined in this section.

(e) The goals of the community mental health programs provided under this part are:

(1) To assist persons who are institutionalized, or who have a high risk of becoming institutionalized, because of a mental disorder, to lead lives which are as normal and independent as possible, consistent with their individual capacities and desires.

(2) To assist persons who experience temporary psychological problems, which disrupt normal living, to return as quickly as possible to a functioning level which enables them to cope with the problems of everyday life.

(3) To prevent serious mental disorders and psychological problems.

SEC. 2. Section 5600 of the Welfare and Institutions Code, as added by Section 2 of Chapter 1305 of the Statutes of 1988, is repealed.

CHAPTER 700

An act to amend Section 48002 of, and to repeal Section 48003 of, the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 48002 of the Education Code is amended to read:

48002. The parent or guardian of a child shall, prior to the

admission of the child to the kindergarten or first grade of a school district, present proof to the authorities of the district evidencing that the child is of the minimum age fixed by law for admission thereto. The method of proof of age shall be prescribed by the governing board, and the evidence may be in the form of a certified copy of a birth record or a statement by the local registrar or a county recorder certifying the date of birth, or a baptism certificate duly attested, or a passport, or, when none of the foregoing is obtainable, an affidavit of the parent, guardian, or custodian of the minor, or any other appropriate means of proving the age of the child as prescribed by the governing board of the school district.

SEC. 2. Section 48003 of the Education Code is repealed.

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

In order that the changes made by this act may become effective in the 1990–91 school year, it is necessary that this act take effect immediately.

CHAPTER 701

An act relating to education, and making an appropriation therefor.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. There is hereby created in the Santa Cruz High School attendance area a program for middle school options to eliminate revenue limit inequities in the per pupil funding for instructional programs for pupils in grades 7 and 8. Participation is limited to the Santa Cruz High School District and the Live Oak Elementary School District. The purpose of the program is to encourage and enable this elementary school district in this attendance area to continue providing a middle school program, in addition to the junior high school program operated by the high school district, thereby increasing enrollment options for all pupils in grades 7 and 8.

SEC. 2. In order for the elementary school district to receive an addition to the revenue limit pursuant to this act, the district shall form a consortium with the Santa Cruz High School District and, at a minimum, all pupils in grades 7 and 8 in the participating districts shall be provided with the option to enroll in either a middle school operated by the elementary school district or a junior high school operated by the high school district. Participation by the districts in

the consortium shall be voluntary.

SEC. 3. For purposes of this act, the following definitions shall apply:

(a) "Middle school program" means a program in which teachers teach a common core curriculum to the same group of pupils in grades 6, 7, and 8 and provide a transition from self-contained classroom education at the elementary level to subject oriented, departmentalized classrooms of the high school level.

(b) "Junior high school program" means a departmentalized program in which pupils in grades 7, 8, and 9 select classes based on subject and move from classroom to classroom during the schoolday.

SEC. 4. A district shall not deny a request for enrollment made pursuant to this chapter unless no space is available in the selected school or unless the choice would have a negative impact on an existing desegregation plan.

SEC. 5. The average daily attendance of pupils participating in the enrollment option pursuant to this act and attending the elementary school district shall be credited to the elementary school district of residence for purposes of determining state apportionments and revenue limits. The average daily attendance of pupils attending the high school district shall be credited to the Santa Cruz High School District.

SEC. 6. For the 1990–91 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall compute an amount in addition to the revenue limit for the elementary district participating in the consortium, equal to the following:

(a) Calculate the average of the base revenue limits per average daily attendance of the districts participating in the consortium.

(b) From the average base revenue limit calculated in subdivision (a), subtract the elementary school district's base revenue limit per average daily attendance.

(c) If the result in subdivision (b) is a positive number, then multiply the result in subdivision (b) by the elementary school district's average daily attendance in grades 7 and 8. That amount shall be added to the total revenue limit computed for that district. If the result in subdivision (b) is zero, or not positive, then no adjustment shall be computed for the district.

(d) If the elementary school district ceases to participate in the consortium, the adjustment computed in this section shall no longer be provided to that district.

SEC. 7.5. The sum of one hundred twenty thousand dollars ($120,000) is hereby appropriated from the General Fund to Section A of the State School Fund for the purposes of the revenue limit increases calculated pursuant to this act.

SEC. 8. Due to the unique circumstances concerning the school districts in the Santa Cruz High School District attendance area, 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. These special circumstances are that Live

Oak Elementary School District is organized as a K–8 district and the Santa Cruz High School District is organized as a 7–12 district.

CHAPTER 702

An act relating to adult education, and making an appropriation therefor.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990.]

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

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

(a) An estimated 70 percent of the 1.4 million county jail inmates who were booked in 1989–90 exhibited substance abuse problems at the time of arrest.

(b) During 1988–90, 185,000 inmates of county jails enrolled in educational programs during their incarceration, which represents 25 percent of those inmates incarcerated for two weeks or more.

(c) Approximately three-fourths of these inmates were from minority groups and one-third spoke a language at home other than English.

(d) National pilot substance abuse programs based on concepts involving self-esteem have had excellent results.

(e) Contra Costa County has a model jail substance abuse program known as DEUCE (Deciding, Education, Understanding, Counseling and Evaluation) which is a self-esteem based substance abuse prevention and treatment model program. A study of the DEUCE program documented that inmates participating in the voluntary 90-day education program were half as likely to be rearrested over 12 months following release as a control group who did not participate in DEUCE.

(f) "The Baseline Study: Education in County Jails" called for the replication of programs demonstrating a positive impact on inmate behavior, especially programs which could document decreases in inmate recidivism. DEUCE is a model substance abuse prevention and treatment program, funded through school apportionment, which has reduced recidivism by 50 percent over a control group. Therefore, this program should be replicated.

SEC. 2. The Legislature further finds and declares all of the following:

(a) Five hundred eighteen thousand inmates in county jails were incarcerated for a period of between two weeks and two years during 1988–90, or 37 percent of the 1,400,000 bookings. More than 50 percent of these inmates are parents of children under 18 years of age.

(b) "The Baseline Study: Education in County Jails" documented that almost 40 percent of inmates being booked each year have custody of children under 18 years of age and another 17 percent have contact with, but have lost custody of, their children through the courts.

(c) Without intervention, children of inmates are far more likely to become involved in the criminal justice system, including serving jail and prison sentences, than children of noninmates.

(d) Parenting skills and basic child development awareness can be taught within regular adult education curriculum.

(e) Of the few known significant factors for inmate success after release, family and parental ties appear to be among the most powerful indicators of success.

(f) One of the prime recommendations of "The Baseline Study: Education in County Jails" is:

"Inasmuch as 40 percent of inmates have custody of children under 18, jail educators should consider more parenting classes. By improving the parenting skills of inmates and their attitudes toward children, more might have a positive influence on their children and regain custody of them."

(g) A model parenting skills program, based upon principals of self-esteem and valuing children, in Los Angeles County jail facilities has proven exceptionally successful. The purpose of the program is to teach incarcerated parents basic family dynamics while seeking to reunite inmates with their children during incarceration. This exceptional program has won the recognition and support of legislators, sheriffs, and jail educators.

(h) Ex-inmate graduates of the Los Angeles County jail parenting program have established a volunteer support group for parents recently released from county jail. More parenting skills programs based on this model need to be established throughout California's county jails.

SEC. 3. (a) It is the intent of the Legislature that the sum of one hundred forty-five thousand dollars ($145,000) be appropriated in the 1991–92 fiscal year for the purpose of studying, documenting, developing, replicating, and expanding self-esteem based substance abuse treatment programs and self-esteem based parenting skills programs in county jails.

(b) Of the sum which is appropriated for purposes of subdivision (a), a sufficient sum shall be made available in the 1991–92 fiscal year as a one-time grant to one existing jail education program with skill and experience in providing parenting skills education to jail inmates for the purpose of training jail education personnel and starting up a minimum of three additional jail education programs that do not have a parenting skills education component.

(c) Of the sum which is appropriated for purposes of subdivision (a), a sufficient sum shall be made available in the 1991–92 fiscal year as a one-time grant to one existing jail education program with skill and experience in inmate substance abuse prevention and treatment

for the purpose of training jail education personnel and starting up a minimum of three additional jail education programs that do not have a substance abuse prevention and treatment component.

(d) Of the sum which is appropriated for purposes of subdivision (a), no more than 10 percent shall be used for the administrative costs incurred by the superintendent in performing the duties set forth in subdivision (a). The grant funds allocated to trainers shall be used primarily for the training of jail education personnel, the purchase of curriculum, instructional and related material, and for other necessary training expenses. In order to be selected as a trainee site, applicants shall demonstrate an ability to implement the programs without additional general fund expenditures for training the following fiscal year.

SEC. 4. The provisions of this act shall become operative on July 1, 1991.

CHAPTER 703

An act to add Part 37 (commencing with Section 64100) to the Education Code, relating to education.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Part 37 (commencing with Section 64100) is added to the Education Code, to read:

PART 37. CATEGORICAL FUNDING

64100. (a) It is the intent of the Legislature that all funding for categorical programs that are funded according to formulas based on indicators of pupils' needs shall be based on district counts of pupils meeting the criteria for the programs. It is further the intent of the Legislature to use the information gained from the reports required by this act to revise and update the funding formulas for categorical programs, as necessary, to ensure that funding is distributed to school districts based on updated indicators of pupils' needs.

(b) The Superintendent of Public Instruction shall, in consultation with the Legislative Analyst's office and the Department of Finance, submit to the Legislature no later than January 1, 1992, a report identifying:

(1) Each of the categorical programs for which funding is based on indicators of pupils' needs.

(2) Each school district's count of pupils that meet the criteria for the programs identified in paragraph (1).

(3) Each school district that has unmet needs based on its count

of pupils meeting the criteria for the programs.

CHAPTER 704

An act to amend Sections 3701.7 and 3702.8 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 3701.7 of the Labor Code is amended to read:

3701.7. Where any employer requesting coverage under a new or existing certificate of consent to self-insure has had a period of unlawful uninsurance, either for an applicant in its entirety or for a subsidiary or member of a joint powers authority legally responsible for its own workers' compensation obligations, the following special conditions shall apply before the requesting employer can operate under a certificate of consent to self-insure:

(a) The director may require a deposit of not less than 200 percent of the outstanding liabilities remaining unpaid at the time of application, which had been incurred during the uninsurance period.

(b) At the discretion of the director, where a public or private employer has been previously totally uninsured for workers' compensation pursuant to Section 3700, the director may require an additional deposit not to exceed 100 percent of the total outstanding liabilities for the uninsured period, or the sum of two hundred fifty thousand dollars ($250,000), whichever is greater.

(c) In addition to the deposits required by subdivisions (a) and (b), a penalty shall be paid to the Uninsured Employers Fund of 10 percent per year of the remaining unpaid liabilities, for every year liabilities remain outstanding. In addition, an additional application fee, not to exceed one thousand dollars ($1,000), plus assessments, pursuant to Section 3702.5 and subdivision (b) of Section 3745, may be imposed by the director and the Self-Insurers' Security Fund, respectively, against private self-insured employers.

(d) An employer may retrospectively insure the outstanding liabilities arising out of the uninsured period, either before or after an application for self-insurance has been approved. Upon proof of insurance acceptable to the director, no deposit shall be required for the period of uninsurance.

The penalties to be paid to the Uninsured Employers Fund shall consist of a one-time payment of 20 percent of the outstanding liabilities for the period of uninsurance remaining unpaid at the time of application, in lieu of any other penalty for being unlawfully

uninsured pursuant to this code.

(e) In the case of a subsidiary which meets all of the following conditions, a certificate shall issue without penalty:

(1) The subsidiary has never had a certificate revoked for reasons set forth in Section 3702.

(2) Employee injuries were reported to the Office of Self-Insurance Plans in annual reports.

(3) The security deposit of the certificate holder was calculated to include the entity's compensation liabilities.

(4) Application for a separate certificate or corrected certificate is made within 90 days and completed within 180 days of notice from the Office of Self-Insurance Plans. If the requirements of this subdivision are not met, all penalties pursuant to subdivision (b) of Section 3702.9 shall apply.

(f) The director may approve an application on the date the application is substantially completed, subject to completion requirements, and may make the certificate effective on an earlier date, covering a period of uninsurance, if the employer complies with the requirements of this section.

(g) Any decision by the director may be contested by an entity in the manner provided in Section 3701.5.

(h) Nothing in this section shall abrogate the right of an employee to bring an action against an uninsured employer pursuant to Section 3706.

(i) Nothing in this statute shall abrogate the right of a self-insured employer to insure against known or unknown claims arising out of the self-insurance period.

SEC. 2. Section 3702.8 of the Labor Code is amended to read:

3702.8. (a) Private employers who have ceased to be self-insured employers shall discharge their continuing obligations to secure the payment of compensation which accrued during the period of self-insurance, for purposes of Sections 3700, 3700.5, 3706, and 3715, by compliance with all of the following obligations of current certificate holders:

(1) Filing annual reports as deemed necessary by the director to carry out the requirements of this chapter.

(2) Depositing and maintaining security deposit for accrued liability for the payment of any compensation which may become due, pursuant to subdivision (b) of Section 3700 and Section 3701, except as provided in subdivision (c).

(3) Paying within 30 days all assessments of which notice is sent, pursuant to subdivision (b) of Section 3745, within 36 months from the last day its certificate of self-insurance was in effect. Assessments shall be based on the benefits paid by the employer during the last full calendar year of self-insurance on claims incurred during that year.

(b) In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the director. An appeal from the director's

determination shall be taken to the appropriate superior court by petition for writ of mandate.

(c) Notwithstanding subdivision (a), a private employer who has ceased to be self-insured may discharge its continuing obligations as a self-insurer by the purchase of a special excess workers' compensation insurance policy from an insurer authorized to transact workers' compensation insurance in this state. Any special excess workers' compensation policy issued by an insurer shall be approved as to form and substance by the Insurance Commissioner. In order for the policy to discharge the full obligations of the employer to maintain a security deposit with the director for the payment of self-insured claims, the special excess policy shall provide coverage for all claims for compensation arising out of injuries occurring during the period the private employer was self-insured. The employer shall maintain the required deposit with the director for a period of three years after the issuance date of the special excess policy unless the insurer issuing the policy posts a financial guarantee bond for a period of three years in an amount equal to the deposit required by the director. The financial guarantee bond shall be issued by a company authorized to issue these bonds in the state but which is not owned or affiliated with the insurer issuing the special excess workers' compensation insurance policy.

The posting of a special excess insurance policy with the director shall discharge the obligation of the Self-Insurer's Security Fund pursuant to Section 3744 to pay claims in the event of an insolvency of the private employer. The California Insurance Guarantee Association shall be advised by the director whenever a special excess insurance policy is posted.

CHAPTER 705

An act to amend Sections 23331 and 23332 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. The Legislature finds and declares that the minimum franchise tax is imposed on corporations for the privilege of exercising the corporate franchise and doing business in this state and should not be imposed in the case of a taxpayer who has demonstrated, by meeting all the requirements of Article 8 (commencing with Section 23331) of Chapter 2 of Part 11 of the Revenue and Taxation Code, the intention of dissolving the corporate entity and no longer doing business under the corporate entity in this state.

SEC. 2. It is the intent of the Legislature to simplify and consolidate the requirements by which a corporation is dissolved or by which a corporation's right to do business in this state is surrendered, and to guarantee that if a taxpayer satisfies all of the conditions required by Article 8 (commencing with Section 23331) of Chapter 2 of Part 11 of the Revenue and Taxation Code, a minimum franchise tax shall not be imposed for the taxable year in which the taxpayer ceases doing business, dissolves, or withdraws.

SEC. 3. Section 23331 of the Revenue and Taxation Code is amended to read:

23331. (a) For the purposes of this article, the effective date of dissolution of a corporation is the date on which the certified copy of the court decree, judgment or order declaring the corporation duly wound up and dissolved is filed in the office of the Secretary of State or the date on which the certificate of winding up and dissolution is filed in the office of the Secretary of State. For the purposes of this article, the effective date of withdrawal of a foreign corporation is the date on which the certificate of withdrawal is filed in the office of the Secretary of State.

(b) The Secretary of State shall, through an information program and by forms and instructions provided to taxpayers, recommend that all documents required by this article to be filed with the Secretary of State be sent, if mailed, by certified mail with return receipt requested. The Secretary of State shall also notify taxpayers that receipt of documents by the Secretary of State pursuant to this article will be acknowledged within 21 days of receipt.

(c) On or before 21 days after their receipt, the Secretary of State shall provide a taxpayer with acknowledgment of the receipt of documents submitted by a taxpayer pursuant to this article.

(d) The office of the Secretary of State shall, no later than July 1, 1991, submit to the Legislature a report of the development of a taxpayer information program, the revision of forms and instructions, and the implementation of procedures for acknowledging receipt from taxpayers of documents required by this article.

SEC. 4. Section 23332 of the Revenue and Taxation Code is amended to read:

23332. (a) Except in the case of a taxpayer subject to the provisions of Section 23222a, any taxpayer which is dissolved or withdraws from the state during any taxable year shall pay a tax only for the months of the taxable year which precede the effective date of such dissolution or withdrawal, according to or measured by (1) the net income of the preceding income year or (2) a percentage of net income determined by ascertaining the ratio which the months of the taxable year, preceding the effective date of dissolution or withdrawal, bears to the months of the income year, whichever is the lesser amount. As to financial corporations, the offset from the tax for the months of such taxable year prior to the effective date of such dissolution or withdrawal shall not exceed that proportion of the

offset computed under Sections 23184 to 23185b, inclusive, which the number of said months prior to the effective date of such dissolution or withdrawal bears to the number of months of the preceding income year. The taxes levied under this chapter shall not be subject to abatement or refund because of the cessation of business or corporate existence of any taxpayer pursuant to a reorganization, consolidation, or merger (as defined by Section 23251). In any event, each corporation shall pay a tax not subject to offset for such period in an amount equal to the minimum tax prescribed by Section 23153.

(b) The provisions of subdivision (a) shall be applied only with respect to taxpayers which dissolve or withdraw before January 1, 1973. On and after such date, the tax for the taxable year in which the taxpayer ceases doing business, dissolves or withdraws shall be determined under the appropriate provisions of Section 23151.1, 23181 or 23183, whichever is applicable. However, if all of the following conditions are satisfied, a minimum franchise tax shall not be imposed with respect to the taxable year in which the taxpayer ceases doing business, dissolves, or withdraws:

(1) The taxpayer does not do business in this state at any time during that taxable year.

(2) The taxpayer, pursuant to Section 23334, files a request for a tax clearance certificate at least 30 days before the beginning of that taxable year.

(3) The taxpayer, pursuant to Section 23334, satisfies all requirements pertaining to the issuance of the tax clearance certificate at least 30 days before the beginning of that taxable year.

(4) The taxpayer files a certificate of dissolution or withdrawal with the Secretary of State, in accordance with Section 23331, by the expiration date of the certificate of tax clearance issued by the Franchise Tax Board. However, the expiration date of the certificate of tax clearance shall be renewed by the Franchise Tax Board, if the taxpayer submits either of the following to the Franchise Tax Board showing receipt of documents by the Secretary of State no later than the expiration date of the certificate of tax clearance:

(A) A copy of the acknowledgment of receipt of documents required by this article issued by the office of the Secretary of State pursuant to subdivision (c) of Section 23331.

(B) A copy of the receipt of certified mailing from the United States Postal Service and a completed declaration of mailing, on a form and in a manner prescribed by the Franchise Tax Board, executed under penalty of perjury.

CHAPTER 706

An act to amend Section 5023 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 5023 of the Vehicle Code is amended to read:

5023. (a) Any person described in Section 5101 may also apply for a set of commemorative Olympic reflectorized license plates and the department shall issue those special license plates in lieu of regular license plates. The commemorative Olympic reflectorized license plates shall be of a distinctive design and shall be available in a special series of letters or numbers, or both, as determined by the department after consultation with the United States Olympic Committee.

(b) In addition to the regular fees for an original registration or renewal of registration, the following special fees shall be paid:

(1) One hundred dollars ($100), inclusive of any administrative fees, for the initial issuance of the special plates.

(2) Twelve dollars ($12) for the transfer of the special plates to another vehicle.

(3) Thirty dollars ($30) for duplicate, replacement commemorative Olympic reflectorized license plates of the same number in the series.

(c) When payment of renewal fees is not required as specified in Section 4000, or when the person determines to retain the plates upon sale, trade, or other release of the vehicle upon which the special plates have been displayed, the person shall notify the department and the person may retain the special plates.

(d) All revenue derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section, shall be deposited in the California Olympic Training Account in the General Fund established pursuant to Section 7592 of the Government Code.

(e) The department shall report to the Legislature the number of commemorative plates that have been issued and renewed pursuant to this section, the total revenue received for the issuance and renewal, the costs incurred by the department, and the amount deposited in the California Olympic Training Account.

The first report shall be submitted to the Legislature on December 31, 1991, and a report shall be submitted every two years thereafter, with a final report to be submitted on December 31, 2011.

CHAPTER 707

An act to amend Section 6060 of the Business and Professions Code, relating to attorneys.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 6060 of the Business and Professions Code is amended to read:

6060. To be certified to the Supreme Court for admission and a license to practice law, a person who does not comply with Section 6062 shall possess all of the following qualifications:

(a) Be of the age of at least 18 years.

(b) Be of good moral character.

(c) Before beginning the study of law, have done either of the following:

(1) Completed at least two years of college work, which college work shall be not less than one-half of the collegiate work acceptable for a bachelor's degree granted upon the basis of a four-year period of study by a college or university approved by the examining committee.

(2) Have attained in apparent intellectual ability the equivalent of at least two years of the college work hereinabove defined. The equivalent shall be determined by the examining committee and may be made after a personal interview with the person or the examining committee may require him or her to pass a written examination. The examination may be given by the examining committee, or, if the examining committee so elects, the examination may be given under its supervision by such members of the faculty of a college as the examining committee may select or by the State Department of Education. However, any person who receives an adverse determination by the committee without an examination or fails an examination given directly by the committee shall, upon demand made within 30 days after receiving notice thereof, have the right to be reexamined either by such faculty members or department as the committee may decide. In the event that the examination is given by the State Department of Education, a fee for the examination, not to exceed fifteen dollars ($15), shall be charged by the department.

The requirements of paragraph (2) shall not apply to a person who had reached the age of 25 years prior to commencing the study of law and who commenced the study and registered with the examining committee as provided in subdivision (d) prior to January 1, 1955.

(d) Have registered with the examining committee as a law student within three months after beginning the study of law. The examining committee, upon good cause being shown, may permit a

later registration.

(e) Have either:

(1) Graduated from a law school accredited by the examining committee requiring substantially the full time of its students for three years.

(2) Graduated from a law school accredited by the examining committee requiring a part only of its students' time for four years.

(3) Studied law diligently and in good faith for at least four years in any of the following manners:

(i) In a law school that is authorized or approved to confer professional degrees and requires classroom attendance of its students for a minimum of 270 hours a year.

A person who has received his or her legal education in a foreign state or country wherein the common law of England does not constitute the basis of jurisprudence shall demonstrate to the satisfaction of the examining committee that his or her education, experience, and qualifications qualify him or her to take the examination.

(ii) In a law office in this state and under the personal supervision of a member of the State Bar of California who is, and for at least five years last past continuously has been, engaged in the active practice of law.

(iii) In the chambers and under the personal supervision of a judge of a court of record of this state.

(iv) By instruction in law from a correspondence law school authorized or approved to confer professional degrees by this state and requiring 864 hours of preparation and study per year for four years. The requirements imposed by the amendments to this subparagraph at the 1987 portion of the 1987–88 Regular Session of the Legislature are not applicable to any person who registered with the examining committee prior to January 1, 1988. However, a correspondence law school that is not authorized or approved to confer professional degrees, but is registered with the examining committee on January 1, 1988, may continue to enroll students until January 1, 1990.

(v) By any combination of the methods referred to in paragraph (3) of this subdivision.

It is the duty of the attorney or judge referred to under (ii) and (iii) of paragraph (3) of this subdivision to render such periodic reports to the examining committee as the committee may require.

(4) Commence the study of law and registered as a law student as provided in subdivision (d) of this section prior to January 1, 1954, and completed four years of law study, diligently and in good faith.

(f) Have passed a final bar examination given by the examining committee.

(g) After completion of his or her first year of law study, have passed a first-year law student's examination given by the examining committee. This requirement does not apply to a student who satisfactorily completes the first-year course of instruction in a law

school accredited by the examining committee and who either (1) commenced the study of law and registered with the examining committee as provided in subdivision (d) of this section prior to January 1, 1954, or (2) had completed at least two years of college work as defined in this section prior to matriculating in the accredited law school, nor shall this requirement apply to an applicant who has passed the bar examination of a sister state or of a country wherein the common law of England constitutes the basis of jurisprudence. An applicant who is required to take the first-year examination shall not receive credit for his or her first year of law study until he or she has passed that examination; nor shall he or she receive credit for any law study subsequent to the first year, and before he or she shall have passed the examination, unless for good cause in a particular case the committee decides that credit should be given for the subsequent study or for some part thereof.

The examination which the students in their first year of law studies are required to take shall be given twice a year at reasonable intervals.

CHAPTER 708

An act to amend Sections 23152 and 23153 of, and to amend and repeal Sections 23152 and 23153 of, the Vehicle Code, relating to driving offenses.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990.]

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

SECTION 1. Section 23152 of the Vehicle Code, as amended by Chapter 479 of the Statutes of 1989, is amended to read:

23152. (a) It is unlawful for any person who is under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, to drive a vehicle.

(b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this subdivision, percent, by weight, of alcohol in a person's blood shall be based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) It is unlawful for any person who is addicted to the use of any

drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code.

(d) This section shall remain in effect only until January 1, 1992, and as of that date is repealed.

SEC. 2. Section 23152 of the Vehicle Code, as added by Section 27 of Chapter 1114 of the Statutes of 1989, is amended to read:

23152. (a) It is unlawful for any person who is under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, to drive a vehicle.

(b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this subdivision, percent, by weight, of alcohol in a person's blood shall be based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) It is unlawful for any person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code.

(d) This section shall become operative only upon the receipt by the Secretary of State of the notice specified in subdivision (f) of Section 23152, as added by Section 25 of Chapter 1114 of the Statutes of 1989.

SEC. 3. Section 23153 of the Vehicle Code, as amended by Chapter 479 of the Statutes of 1989, is amended to read:

23153. (a) It is unlawful for any person, while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, to drive a vehicle and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(b) It is unlawful for any person, while having 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

For purposes of this subdivision, percent, by weight, of alcohol in

a person's blood shall be based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) In proving the person neglected any duty imposed by law in the driving of the vehicle, it is not necessary to prove that any specific section of this code was violated.

(d) This section shall remain in effect only until January 1, 1992, and as of that date is repealed.

SEC. 4. Section 23153 of the Vehicle Code, as added by Section 32 of Chapter 1114 of the Statutes of 1989, is amended to read:

23153. (a) It is unlawful for any person, while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, to drive a vehicle and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(b) It is unlawful for any person, while having 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

For purposes of this subdivision, percent, by weight, of alcohol in a person's blood shall be based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) In proving the person neglected any duty imposed by law in the driving of the vehicle, it is not necessary to prove that any specific section of this code was violated.

(d) This section shall become operative only upon the receipt by the Secretary of State of the notice specified in subdivision (f) of Section 23153, as added by Section 30 of Chapter 1114 of the Statutes of 1989.

CHAPTER 709

An act to add Chapter 11.5 (commencing with Section 6930) to Division 7 of Title 1 of the Government Code, relating to governmental investors.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Chapter 11.5 (commencing with Section 6930) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 11.5. GOVERNMENTAL INVESTORS

6930. As used in this chapter:

(a) "Governmental investor" means the Treasurer, the Teachers' Retirement Board, and the Board of Administration of the Public Employees' Retirement System. "Governmental investor" also means each county treasurer, each city treasurer, each public governing or investing body or public investing officer, who exercises investment discretion over public funds in excess of ten million dollars ($10,000,000) or over public pension or retirement funds in excess of ten million dollars ($10,000,000).

(b) "Soft dollar and directed brokerage arrangements" means the brokerage and research services described by Section 28 (e) of the Securities Exchange Act of 1934 (15 U.S.C. Sec. 78bb(e)).

(c) "Transaction cost" means the overall cost of the transaction, including, but not limited to, commissions, services, and the price of the securities.

(d) "Responsible" means with the due diligence required of a fiduciary to examine a presented transaction for: necessity of soft dollar services provided and for commission cost; quality of the trade; quality of the broker-dealer's research; the broker-dealer's execution capabilities; and the broker-dealer's quality of service.

6931. Each securities transaction or brokerage agreement carried out for a governmental investor pursuant to a soft dollar and directed brokerage arrangement, as defined in subdivision (b) of Section 6930, shall be executed at the lowest responsible transaction cost available.

6932. Any written contract entered into between a governmental investor and an investment manager on or after January 1, 1991, for the management of assets of a public fund or a public pension or retirement fund, which includes a soft dollar and directed brokerage arrangement, shall contain the following requirements:

(a) The investment manager shall maintain complete and detailed records of all billed services provided pursuant to soft dollar and directed brokerage arrangements.

(b) The services which may be provided by a broker-dealer pursuant to soft dollar and directed brokerage arrangements shall be clearly defined.

(c) The investment manager shall, in the customer agreement letters with governmental investors, disclose:

(1) A list of all billed services provided pursuant to soft dollar and directed brokerage arrangements with respect to investment transactions for the governmental investor.

(2) The justification for providing each of those services.

(3) The maximum percentage of the investment transactions of the governmental investor planned for use in soft dollar and directed brokerage arrangements.

(4) An annual statement of all billed services provided during the previous year under soft dollar and directed brokerage arrangements with respect to investment transactions for the governmental investor.

(5) A determination of whether each service provided under soft dollar and directed brokerage arrangements with respect to investment transactions for the governmental investor is proprietary or is being shared by other clients of the investment manager.

6933. Soft dollar and directed brokerage arrangements are not subject to any statutory competitive bidding requirements.

This section does not constitute a change in, but is declaratory of, existing law.

6934. This chapter shall apply to contracts entered into, renewed, or extended on and after January 1, 1991.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 710

An act to amend Sections 221, 230, 554, 900, 1215, 1220, 2333, 2356, 2357, 2501, 2555, 3208, 6111, 6247, 6522, 7662, 7666, 8461, 8547, 9390, 9832, 9941, 10406, 10501, 10830, 10831, 10850, 10900, 10954, 11000, 11623, 12205, 15003, and 17001 of, to amend the heading of Part 7 (commencing with Section 10800) of Division 7 of, to add Sections 1212, 6111.5, 6211, 8469, and 10168 to, to add an article heading to Article 1 (commencing with Section 10800) of Chapter 1 of Part 7 of Division 7 of, to add Article 2 (commencing with Section 10810) to Chapter 1 of Part 7 of Division 7 of, and to repeal Sections 10404.5, 10565, 10585.5, and 17102 of, the Probate Code, as added by Chapter

79 of the Statutes of 1990, and to amend Section 37 of Chapter 79 of the Statutes of 1990, relating to probate law.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990.]

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

NOTE: See Stats. 1990, Ch. 79 for SECTION 1 through SEC. 45

SEC. 46. Section 37 of Chapter 79 of the Statutes of 1990 is amended to read:

Sec. 37. This act shall become operative on July 1, 1991.

SEC. 47. Section 13 of this act, which amends Section 6111 of the Probate Code, as added by Chapter 79 of the Statutes of 1990, and Section 14 of this act, which adds Section 6111.5 to the Probate Code enacted by Chapter 79 of the Statutes of 1990, shall become operative only if Senate Bill 1984 of the 1989–90 Regular Session is chaptered and takes effect on or before January 1, 1991, in which case Sections 13 and 14 of this act shall become operative on July 1, 1991.

SEC. 48. This act shall become operative on July 1, 1991.

CHAPTER 711

An act to amend the heading of Chapter 8 (commencing with Section 42440) of Part 6 of, to add an article heading immediately preceding Section 42440 of, and to add Article 2 (commencing with Section 42450) to Chapter 8 of Part 6 of, Division 30 of, the Public Resources Code, relating to solid waste.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. The Legislature finds and declares that it is desirable to study the recyclability of household batteries and the effect of household batteries on solid waste landfills and transformation facilities. Household batteries include batteries from hearing aids, cameras, watches, computers, calculators, flashlights, lanterns, standby and emergency lighting, portable radio and television sets, meters, toys, clocks, and other batteries typically

(next page is 3313)

generated as household waste.

SEC. 2. The heading of Chapter 8 (commencing with Section 42440) of Part 6 of Division 30 of the Public Resources Code is amended to read:

CHAPTER 8. RECYCLED BATTERY PROGRAMS

SEC. 3. An article heading is added immediately preceding Section 42440 of the Public Resources Code, to read:

Article 1. Lead-Acid Battery Program

SEC. 4. Article 2 (commencing with Section 42450) is added to Chapter 8 of Part 6 of Division 30 of the Public Resources Code, to read:

Article 2. Household Battery Program

42450. (a) The board may conduct a study on the disposal and recyclability of household batteries, taking into account any studies completed or underway elsewhere, including, but not limited to, any studies by the Environmental Protection Agency. The board may participate in the study.

(b) The study may include, but is not limited to, all of the following:

(1) The effect of used household batteries on solid waste landfills and transformation facilities, including any threats to human health or environment.

(2) The recyclability of used household batteries, including, but not limited to, the following topics:

(A) Applicable recycling technologies and their effectiveness.

(B) Collection systems.

(C) Possible adverse effects on human health or the environment resulting from exposure to household batteries at all stages of the recycling process.

(D) Costs and revenues associated with recycling, including avoided disposal costs.

(E) Development of markets for products derived from recycled household batteries.

(c) For the purposes of this section, "household batteries" means batteries made of mercury, alkaline, carbon-zinc, nickel-cadmium, and other batteries typically generated as household waste, including, but not limited to, batteries used in hearing aids, cameras, watches, computers, calculators, flashlights, lanterns, standby and emergency lighting, portable radio and television sets, meters, toys, and clocks, but excluding lead-acid batteries as defined in Section 42440.

CHAPTER 712

An act to add Section 13202.6 to the Vehicle Code, relating to drivers' licenses.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 13202.6 is added to the Vehicle Code, to read:

13202.6. (a) (1) For each conviction of a person for any offense specified in subdivision (d), committed while the person was 13 years of age or older, the court may suspend the person's driving privilege for one year. If the person convicted does not yet have the privilege to drive, the court may order the department to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. However, if there is no further conviction for any offense specified in subdivision (d) in a 12-month period after the conviction, the court, upon petition of the person affected, may modify the order imposing the delay of the privilege. For each successive offense, the court shall suspend the person's driving privilege for those possessing a license or delay the eligibility for those not in possession of a license at the time of their conviction for one additional year.

(2) Any person whose driving privilege is suspended or delayed for an act involving vandalism in violation of Section 594 of the Penal Code, may elect to reduce the period of suspension or delay imposed by the court by performing community service under the supervision of the probation department. The period of suspension or delay ordered under paragraph (1) shall be reduced at the rate of one day for each hour of community servce performed. For purposes of this paragraph, "community service" means cleaning up graffiti from any public property, including public transit vehicles.

(3) As used in this section, the term "conviction" includes the findings in juvenile proceedings specified in Section 13105.

(b) (1) Whenever the court suspends driving privileges pursuant to subdivision (a), the court in which the conviction is had shall require all drivers' licenses held by the person to be surrendered to the court. The court shall, within 10 days following the conviction, transmit a certified abstract of the conviction, together with any drivers' licenses surrendered, to the department.

(2) Violations of restrictions imposed pursuant to this section are subject to Section 14603.

(c) When the court is considering suspending or delaying driving privileges pursuant to subdivision (a), the court shall consider if a personal or family hardship exists that requires the person to have a driver's license for his or her own, or a member of his or her family's,

employment or medically related purposes.

(d) This section applies to violations involving vandalism in violation of Section 594 of the Penal Code by defacing property with paint or any other liquid.

(e) The suspension, restriction, or delay of driving privileges pursuant to this section shall be in addition to any penalty imposed upon conviction of any violation specified in subdivision (d).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the Constitution because counties will receive funding under the Brown-Presley Trial Court Funding Act (Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code) in lieu of that reimbursement. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 713

An act to add Section 6147.5 to the Business and Professions Code, relating to attorneys.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 6147.5 is added to the Business and Professions Code, to read:

6147.5. (a) Sections 6147 and 6148 shall not apply to contingency fee contracts for the recovery of claims between merchants as defined in Section 2104 of the Commercial Code, arising from the sale or lease of goods or services rendered, or money loaned for use, in the conduct of a business or profession if the merchant contracting for legal services employs 10 or more individuals.

(b) (1) In the instances in which no written contract for legal services exists as permitted by subdivision (a), an attorney shall not contract for or collect a contingency fee in excess of the following limits:

(A) Twenty percent of the first three hundred dollars ($300) collected.

(B) Eighteen percent of the next one thousand seven hundred dollars ($1,700) collected.

(C) Thirteen percent of sums collected in excess of two thousand dollars ($2,000).

(2) However, the following minimum charges may be charged and collected:

(A) Twenty-five dollars ($25) in collections of seventy-five dollars ($75) to one hundred twenty-five dollars ($125).

(B) Thirty-three and one-third percent of collections less than seventy-five dollars ($75).

CHAPTER 714

An act to amend Sections 1061 and 1062 of, and to add Section 1063 to, the Evidence Code, relating to trade secrets.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 12, 1990]

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

SECTION 1. Section 1061 of the Evidence Code, as added by Chapter 149 of the Statutes of 1990, is amended to read:

1061. (a) For purposes of this section, and Sections 1062 and 1063:

(1) "Trade secret" means "trade secret," as defined in subdivision (d) of Section 3426.1 of the Civil Code, or paragraph (9) of subdivision (a) of Section 499c of the Penal Code.

(2) "Article" means "article," as defined in paragraph (2) of subdivision (a) of Section 499c of the Penal Code.

(b) In addition to Section 1062, the following procedure shall apply whenever the owner of a trade secret wishes to assert his or her trade secret privilege, as provided in Section 1060, during a criminal proceeding:

(1) The owner of the trade secret shall file a motion for a protective order, or the People may file the motion on the owner's behalf and with the owner's permission. The motion shall include an affidavit based upon personal knowledge listing the affiant's qualifications to give an opinion concerning the trade secret at issue, identifying, without revealing, the alleged trade secret and articles which disclose the secret, and presenting evidence that the secret qualifies as a trade secret under either subdivision (d) of Section 3426.1 of the Civil Code or paragraph (9) of subdivision (a) of Section 499c of the Penal Code. The motion and affidavit shall be served on all parties in the proceeding.

(2) Any party in the proceeding may oppose the request for the protective order by submitting affidavits based upon the affiant's personal knowledge. The affidavits shall be filed under seal, but shall be provided to the owner of the trade secret and to all parties in the proceeding. Neither the owner of the trade secret nor any party in the proceeding may disclose the affidavit to persons other than to counsel of record without prior court approval.

(3) The movant shall, by a preponderance of the evidence, show that the issuance of a protective order is proper. The court may rule on the request without holding an evidentiary hearing. However, in its discretion, the court may choose to hold an in camera evidentiary

hearing concerning disputed articles with only the owner of the trade secret, the People's representative, the defendant, and defendant's counsel present. If the court holds such a hearing, the parties' right to examine witnesses shall not be used to obtain discovery, but shall be directed solely toward the question of whether the alleged trade secret qualifies for protection.

(4) If the court finds that a trade secret may be disclosed during any criminal proceeding unless a protective order is issued and that the issuance of a protective order would not conceal a fraud or work an injustice, the court shall issue a protective order limiting the use and dissemination of the trade secret, including, but not limited to, articles disclosing that secret. The protective order may, in the court's discretion, include the following provisions:

(A) That the trade secret may be disseminated only to counsel for the parties, including their associate attorneys, paralegals, and investigators, and to law enforcement officials or clerical officials.

(B) That the defendant may view the secret only in the presence of his or her counsel, or if not in the presence of his or her counsel, at counsel's offices.

(C) That any party seeking to show the trade secret, or articles containing the trade secret, to any person not designated by the protective order shall first obtain court approval to do so:

(i) The court may require that the person receiving the trade secret do so only in the presence of counsel for the party requesting approval.

(ii) The court may require the person receiving the trade secret to sign a copy of the protective order and to agree to be bound by its terms. The order may include a provision recognizing the owner of the trade secret to be a third-party beneficiary of that agreement.

(iii) The court may require a party seeking disclosure to an expert to provide that expert's name, employment history, and any other relevant information to the court for examination. The court shall accept that information under seal, and the information shall not be disclosed by any court except upon termination of the action and upon a showing of good cause to believe the secret has been disseminated by a court-approved expert. The court shall evaluate the expert and determine whether the expert poses a discernible risk of disclosure. The court shall withhold approval if the expert's economic interests place the expert in a competitive position with the victim, unless no other experts are available. The court may interview the expert in camera in aid of its ruling. If the court rejects the expert, it shall state its reasons for doing so on the record and a transcript of those reasons shall be prepared and sealed.

(D) That no articles disclosing the trade secret shall be filed or otherwise made a part of the court record available to the public without approval of the court and prior notice to the owner of the secret. The owner of the secret may give either party permission to accept the notice on the owner's behalf.

(E) Other orders as the court deems necessary to protect the

integrity of the trade secret.

(c) A ruling granting or denying a motion for a protective order filed pursuant to subdivision (b) shall not be construed as a determination that the alleged trade secret is or is not a trade secret as defined by subdivision (d) of Section 3426.1 of the Civil Code or paragraph (9) of subdivision (a) of Section 499c of the Penal Code. Such a ruling shall not have any effect on any civil litigation.

(d) A protective order entered by a municipal court pursuant to this section shall remain in effect in a superior court unless that order is amended or vacated for good cause shown.

(e) This section shall have prospective effect only and shall not operate to invalidate previously entered protective orders.

SEC. 2. Section 1062 of the Evidence Code, as added by Chapter 149 of the Statutes of 1990, is amended to read:

1062. (a) Notwithstanding any other provision of law, in a criminal case, the court, upon motion of the owner of a trade secret, or upon motion by the People with the consent of the owner, may exclude the public from any portion of a criminal proceeding where the proponent of closure has demonstrated a substantial probability that the trade secret would otherwise be disclosed to the public during that proceeding and a substantial probability that the disclosure would cause serious harm to the owner of the secret, and where the court finds that there is no overriding public interest in an open proceeding. No evidence, however, shall be excluded during a criminal proceeding pursuant to this section if it would conceal a fraud, work an injustice, or deprive the People or the defendant of a fair trial.

(b) The motion made pursuant to subdivision (a) shall identify, without revealing, the trade secrets which would otherwise be disclosed to the public. A showing made pursuant to subdivision (a) shall be made during an in camera hearing with only the owner of the trade secret, the People's representative, the defendant, and defendant's counsel present. A court reporter shall be present during the hearing. Any transcription of the proceedings at the in camera hearing, as well as any articles presented at that hearing, shall be ordered sealed by the court and only a court may allow access to its contents upon a showing of good cause. The court, in ruling upon the motion made pursuant to subdivision (a), may consider testimony presented or affidavits filed in any proceeding held in that action.

(c) If, after the in camera hearing described in subdivision (b), the court determines that exclusion of trade secret information from the public is appropriate, the court shall close only that portion of the criminal proceeding necessary to prevent disclosure of the trade secret. Before granting the motion, however, the court shall find and state for the record that the moving party has met its burden pursuant to subdivision (b), and that the closure of that portion of the proceeding will not deprive the People or the defendant of a fair trial.

(d) The owner of the trade secret, the People, or the defendant

may seek relief from a ruling denying or granting closure by petitioning a higher court for extraordinary relief.

(e) Whenever the court closes a portion of a criminal proceeding pursuant to this section, a transcript of that closed proceeding shall be made available to the public as soon as practicable. The court shall redact any information qualifying as a trade secret before making that transcript available.

(f) The court, subject to Section 867 of the Penal Code, may allow witnesses who are bound by a protective order entered in the criminal proceeding protecting trade secrets, pursaunt to Section 1061, to remain within the courtroom during the closed portion of the proceeding.

SEC. 3. Section 1063 is added to the Evidence Code, to read:

1063. The following provisions shall govern requests to seal articles which are protected by a protective order entered pursuant to Evidence Code Section 1060 or 1061:

(a) The People shall request sealing of articles reasonably expected to be filed or admitted into evidence as follows:

(1) No less than 10 court days before trial, and no less than five court days before any other criminal proceeding, the People shall file with the court a list of all articles which the People reasonably expect to file with the court, or admit into evidence, under seal at that proceeding. That list shall be available to the public. The People may be relieved from providing timely notice upon showing that exigent circumstances prevent that notice.

(2) The court shall not allow the listed articles to be filed, admitted into evidence, or in any way made a part of the court record otherwise open to the public before holding a hearing to consider any objections to the People's request to seal the articles. The court at that hearing shall allow those objecting to the sealing to state their objections.

(3) After hearing any objections to sealing, the court shall conduct an in camera hearing with only the owner of the trade secret contained within those articles, the People's representative, defendant, and defendant's counsel present. The court shall review the articles sought to be sealed, evaluate objections to sealing, and determine whether the People have satisfied the constitutional standards governing public access to articles which are part of the judicial record. The court may consider testimony presented or affidavits filed in any proceeding held in that action. The People, defendant, and the owner of the trade secret may file affidavits based on the affiant's personal knowledge to be considered at that hearing. Those affidavits are to be sealed and not released to the public, but shall be made available to the parties. The court may rule on the request to seal without taking testimony. If the court takes testimony, examination of witnesses shall not be used to obtain discovery, but shall be directed solely toward whether sealing is appropriate.

(4) If the court finds that the movant has satisfied appropriate constitutional standards with respect to sealing particular articles,

the court shall seal those articles if and when they are filed, admitted into evidence, or in any way made a part of the court record otherwise open to the public. The articles shall not be unsealed absent an order of a court upon a showing of good cause. Failure to examine the court file for notice of a request to seal shall not constitute good cause to consider objections to sealing.

(b) The following procedure shall apply to other articles made a part of the court record:

(1) Where any articles protected by a protective order entered pursuant to Section 1060 or 1061 are filed, admitted into evidence, or in any way made a part of the court record in such a way as to be otherwise open to the public, the People, a defendant, or the owner of a trade secret contained within those articles may request the court to seal those articles.

(2) The request to seal shall be made by noticed motion filed with the court. It may also be made orally in court at the time the articles are made a part of the court record. Where the request is made orally, the movant must file within 24 hours a written description of that request, including a list of the articles which are the subject of that request. These motions and lists shall be available to the public.

(3) The court shall promptly conduct hearings as provided in paragraphs (2), (3), and (4) of subdivision (a). The court shall, pending the hearings, seal those articles which are the subject of the request. Where a request to seal is made orally, the court may conduct hearings at the time the articles are made a part of the court record, but shall reconsider its ruling in light of additional objections made by objectors within two court days after the written record of the request to seal is made available to the public.

(4) Any articles sealed pursuant to these hearings shall not be unsealed absent an order of a court upon a showing of good cause. Failure to examine the court file for notice of a request to seal shall not constitute good cause to consider objections to sealing.

CHAPTER 715

An act to amend Section 65086.5 of, and to add Section 65086.4 to, the Government Code, relating to transportation.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990]

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

SECTION 1. The Legislature finds and declares that reliable project cost estimates are critical to effective budgeting of state transportation funds. Methods must be developed and established to guide the preparation of cost estimates by the Department of Transportation and other entities for projects which are to be

included in the state transportation improvement program. Project studies reports are an important means towards accomplishing this goal. The development of guidelines and procedures for completion of project studies reports by the department and other entities will assist in the timely construction of needed transportation improvements.

SEC. 2. Section 65086.4 is added to the Government Code, to read:

65086.4. (a) In addition to the regional transportation improvement program, the entity adopting that program may prepare and adopt a future development list of capacity increasing state highway projects in priority order for purposes of the initiation of project studies reports. If the list is prepared within the area of the multicounty designated transportation planning agency, as defined in Section 130004 of the Public Utilities Code, each county transportation commission shall adopt, for the area within its jurisdiction, a future development list of capacity increasing state highway projects in priority order. The future development list adopted by the multicounty transportation planning agency shall include the lists separately adopted by each county transportation commission. These lists shall be limited to the regional summation of funds available for capacity-improvement projects in the adopted state transportation improvement program when distributed according to the county minimum formula defined in Section 188.8 of the Streets and Highways Code.

(b) The list shall be submitted to the Department of Transportation and shall be used solely for the purpose of preparing the project studies report. The list shall not be subject to review and approval by the California Transportation Commission and shall not be included in the state transportation improvement program.

SEC. 3. Section 65086.5 of the Government Code is amended to read:

65086.5. (a) To the extent that the work does not jeopardize the delivery of the projects in the adopted state transportation improvement program, the Department of Transportation shall prepare a project studies report for each capacity increasing state highway project which is listed on the regional list submitted to the department pursuant to subdivision (b) of Section 65086.4. The project studies report shall include the project-related factors of limits, description, scope, costs, and the amount of time needed for initiating construction. If a regional list is not consistent with the financial limitation of subdivision (a) of Section 65086.4, projects for that region may be limited in priority order to the funding limit for that region.

(b) The Department of Transportation shall seek assistance from regional and local transportation agencies or other entities for the preparation of project studies reports for projects contained in the list prepared, adopted, and submitted pursuant to Section 65086.4 when the report cannot be completed so as to allow a project to be

eligible for inclusion in the upcoming state transportation improvement program. Whenever project studies reports are performed by an entity other than the Department of Transportation, the department shall review and approve the report.

(c) The Department of Transportation may be requested to prepare a project studies report for a capacity-increasing state highway project which is being proposed for inclusion in a future state transportation improvement program. The department shall have 30 days to determine whether it can complete the requested report in a timely fashion. If the department determines that it cannot complete the report in a timely fashion, the requesting entity may prepare the report. Upon submission of a project studies report to the department by the entity, the department shall complete its review and provide its comments to that entity within 60 days from the date of submission. The department shall complete its review and final determination of a report which has been revised to address the department's comments within 30 days following submission of the revised report.

(d) The Department of Transportation, in consultation with representatives of cities, counties, and regional transportation planning agencies, shall prepare draft guidelines for the preparation of project studies reports by all entities. The guidelines shall address the development of reliable cost estimates. The department shall submit the draft guidelines to the California Transportation Commission not later than July 1, 1991. The commission shall adopt the final guidelines not later than October 1, 1991. Guidelines adopted by the commission shall apply only to project studies reports commenced after October 1, 1991.

CHAPTER 716

An act to amend Section 1365 of the Civil Code, relating to common interest developments.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 1365 of the Civil Code is amended to read:

1365. Unless the declaration imposes more stringent standards, the association shall prepare and distribute to all its members the following documents:

(a) A pro forma operating budget, which shall include all of the following:

(1) The estimated revenue and expenses on an accrual basis.

(2) The identification of the total cash reserves currently set aside.

(3) An estimate of the current replacement costs of, and the

estimated remaining useful life of, and the methods of funding used to defray the future repair, replacement, or additions to, those major components which the association is obligated to maintain.

(4) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the association is obligated to maintain.

A copy of the operating budget shall be annually distributed not less than 45 days nor more than 60 days prior to the beginning of the association's fiscal year.

(b) A review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars ($75,000). A copy of the review of the financial statement shall be distributed within 120 days after the close of each fiscal year.

(c) In lieu of the distribution of the pro forma operating budget required by subdivision (a), the board of directors may elect to distribute a summary of the pro forma operating budget to all its members with a written notice that the pro forma operating budget is available at the business office of the association or at another suitable location within the boundaries of the development and that copies will be provided upon request and at the expense of the association. If any member requests that a copy of the pro forma operating budget required by subdivision (a) be mailed to the member, the association shall provide the copy to the member by first-class United States mail at the expense of the association and delivered within five days. The written notice that is distributed to each of the association members shall be in at least 10-point bold type on the front page of the summary of the budget.

(d) A statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its assessments against its members shall be annually delivered to the members during the 60-day period immediately preceding the beginning of the association's fiscal year.

CHAPTER 717

An act to amend Section 5005.1 of the Corporations Code, relating to insurance.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 5005.1 of the Corporations Code is amended to read:

5005.1. (a) Except for a liability which may be insured against pursuant to Division 4 (commencing with Section 3200) of the Labor Code, an authorized corporation may do any of the following:

(1) Insure itself against all or any part of any tort liability.

(2) Insure any employee of the corporation against all or any part of his or her liability for injury resulting from an act or omission in the scope of employment.

(3) Insure any board member, officer, or volunteer of the corporation against any liability that may arise from any act or omission in the scope of participation with the corporation.

(4) Insure itself against any loss arising from physical damage to motor vehicles owned or operated by the corporation.

(b) The insurance authorized pursuant to this section shall only be available to an authorized corporation where that corporation has joined with two or more other authorized corporations in an arrangement providing for the pooling of self-insured claims or losses. The pooling arrangement shall not be considered insurance nor be subject to regulation under the Insurance Code.

(c) Nothing in this section shall be construed to authorize a corporation organized pursuant to this division to pay for, or to insure, contract, or provide for payment for, any part of a claim or judgment against an employee of the corporation for punitive or exemplary damages.

(d) Any insurance pool established pursuant to this section shall have initial pooled resources of not less than two hundred fifty thousand dollars ($250,000).

(e) All participating corporations in any pool established pursuant to this section must agree to pay premiums or make other mandatory financial contributions or commitments necessary to ensure a financially sound risk pool.

(f) For the purpose of this section, an authorized "corporation" means any corporation that meets all of the following criteria:

(1) Is organized chiefly to provide or fund health or human services, but does not include a hospital.

(2) Is exempt from taxation under paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code.

CHAPTER 718

An act to amend Section 254.5 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 254.5 of the Revenue and Taxation Code is amended to read:

254.5. (a) Affidavits for the welfare exemption and the veterans' organization exemption shall be filed in duplicate on or before March 15 of each year with the assessor and shall be accompanied by duplicate certified copies of the financial statements of the owner and operator. Copies of the affidavits and financial statements shall be forwarded not later than April 1 by the assessor with his or her recommendations for approval or denial to the board which shall review all such affidavits and statements and may institute an independent audit or verification of the operations of the owner and operator to ascertain whether both the owner and operator meet the requirements of Section 214 of the Revenue and Taxation Code. In this connection the board shall consider, among other matters, whether:

(1) The services and expenses of the owner or operator (including salaries) are excessive, based upon like services and salaries in comparable public institutions;

(2) The operations of the owner or operator, either directly or indirectly, materially enhance the private gain of any individual or individuals;

(3) Any capital investment of the owner or operator for expansion of physical plant is justified by the contemplated return thereon, and required to serve the interests of the community.

(4) The property on which exemption is claimed is used for the actual operation of an exempt activity and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(b) The board shall make a finding as to the eligibility of each applicant and the applicant's property and shall forward its finding to the assessor concerned not later than June 1. In a case where the board conducts a hearing with respect to the eligibility of the applicant and the applicant's property, the time for making the finding and forwarding it to the assessor concerned is extended to no later than June 15. The assessor may deny the claim of an applicant the board finds eligible but may not grant the claim of an applicant the board finds ineligible.

(c) Notwithstanding subdivision (a), an applicant, granted a welfare exemption and owning any property exempted pursuant to

Section 231, shall not be required to reapply for the welfare exemption in any subsequent year in which there has been no transfer of, or other change in title to, the exempted property and the property is used exclusively by a governmental entity for its interest and benefit. The applicant shall notify the assessor on or before March 15 if, on or before the preceding lien date, the applicant became ineligible for the welfare exemption or if, on or before that lien date, the property was no longer owned by the applicant or otherwise failed to meet all requirements for the welfare exemption.

Prior to the lien date, the assessor shall annually mail a notice to every applicant relieved of the requirement of filing an annual application by this subdivision.

The notice shall be in a form and contain that information which the board may prescribe, and shall set forth the circumstances under which the property may no longer be eligible for exemption and advise the applicant of the duty to inform the assessor if the property is no longer eligible for exemption.

The notice shall include a card which is to be returned to the assessor by any applicant desiring to maintain eligibility for the welfare exemption under Section 231. The card shall be in the following form:

To all persons who have received a welfare exemption under Section 231 of the Revenue and Taxation Code for the _____ fiscal year.

Question: Will the property to which the exemption applies in the _____ fiscal year continue to be used exclusively by government for its interest and benefit in the _____ fiscal year?

YES _____ NO _____

Signature: _____ Title: _____

Failure to return this card does not of itself constitute a waiver of exemption as called for by the California Constitution, but may result in onsite inspection to verify exempt activity.

(d) Upon any indication that a welfare exemption has been incorrectly granted, the assessor shall redetermine eligibility for the exemption. If the assessor determines that the property, or any portion thereof, is no longer eligible for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for the exemption.

(e) If a welfare exemption has been incorrectly allowed, an escape assessment as provided by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption, with

interest as provided in Section 506, shall be made, and a penalty shall be assessed for any failure to notify the assessor as required by this section in an amount equaling 10 percent of the escape assessment, but in no event exceeding two hundred fifty dollars ($250).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 719

An act to amend Sections 621.5, 1128, 1129, 1703, and 13052.5 of, and to add Section 13004.5, to, the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 621.5 of the Unemployment Insurance Code is amended to read:

621.5. (a) "Employee" also means any individual who is an employee, pursuant to Section 2750.5 of the Labor Code, of a person who holds a valid state contractor's license pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

(b) When subdivision (a) does not apply, "employee" shall also mean any individual who is an employee, pursuant to Section 2750.5 of the Labor Code, of a person who is required to obtain a valid state contractor's license pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

SEC. 2. Section 1128 of the Unemployment Insurance Code is amended to read:

1128. If the failure of the employing unit to file a return within the time required by this division and authorized regulations or if any part of the deficiency for which an assessment is made is due to fraud or an intent to evade this division or authorized regulations, a penalty of 50 percent of the amount of contributions assessed shall be added to the assessment. This penalty is in addition to the penalties provided pursuant to Sections 1126 and 1127.

SEC. 3. Section 1129 of the Unemployment Insurance Code is amended to read:

1129. The amount of each assessment shall bear interest at the

adjusted annual rate and by the method established pursuant to Section 19269 of the Revenue and Taxation Code from and after the last day of the month following the close of the calendar quarter, or from and after the 15th day of the month following the close of the calendar month, for which the contributions should have been returned until the date of payment.

SEC. 4. Section 1703 of the Unemployment Insurance Code is amended to read:

1703. (a) If any employing unit or other person fails to pay any amount imposed under this division at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs, shall be a perfected and enforceable state tax lien. This lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the director, the date of the notice by the director to the taxpayer of the amount due.

(2) For penalties imposed pursuant to Sections 1112.5, 1114, and 13052.5, the date of the notice by the director to the taxpayer of the amount due.

(3) For all other amounts, the date the assessment is final.

SEC. 5. Section 13004.5 is added to the Unemployment Insurance Code, to read:

13004.5. (a) "Employee" also means any individual who is an employee pursuant to Section 2750.5 of the Labor Code, of a person who holds a valid state contractor's license pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

(b) When subdivision (a) does not apply, "employee" shall also mean any individual who is an employee, pursuant to Section 2750.5 of the Labor Code, of a person who is required to obtain a valid state contractor's license pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

SEC. 6. Section 13052.5 of the Unemployment Insurance Code is amended to read:

13052.5. (a) In addition to the penalty imposed by Section 18681.1 of the Revenue and Taxation Code (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 this code or Sections 18802 and 18802.2 of the Revenue and Taxation Code on the date prescribed thereof (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 of the Revenue and Taxation Code 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 this code or Section 18802 or 18802.2 of the Revenue and Taxation Code.

(d) Sections 1221 and 1222 of the Unemployment Insurance Code shall not apply to assessments imposed by this section.

(e) The penalty imposed under this section shall be in lieu of the penalty imposed under Section 18681.6 of the Revenue and Taxation Code. In the event that a penalty is imposed under both this section and Section 18681.6 of the Revenue and Taxation Code, only the penalty imposed under this section shall apply.

(f) The penalty imposed by this section may be assessed in lieu of, or in addition to, the penalty imposed by Section 13052 with respect to the failure to furnish a withholding statement to an employee.

CHAPTER 720

An act to add Sections 14021.7 and 14132.49 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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 in excess of 50,000 births to adolescents each year in California.

(b) The tragic consequences of too early childbearing and parenthood often include (1) the lack of prenatal care, which results in increased maternal and infant morbidity and mortality; (2) poor health due to lack of nutrition; (3) lost educational opportunities; (4) poor employability; (5) child abuse and neglect; (6) lessened income potential; and (7) chronic intergenerational dependence on public social services.

(c) The problem of pregnant and parenting adolescents will continue to have major fiscal implications for the entire health and welfare system, including the Medi-Cal program. Therefore, efforts should be made to reduce and manage the costs of care in serving pregnant and parenting adolescents and their infants, while maintaining quality health care, by taking advantage of federal funding opportunities.

(d) Case management for pregnant and parenting adolescents provides access to quality health care with increased opportunities for cost containment, efficient use of limited resources, improved access to early treatment, and better coordination of services.

(e) The state's case management pilot program for high-risk

adolescents has demonstrated its effectiveness among program participants by (1) reducing low birthweight rates by 27 percent; (2) improving school enrollment by keeping 81 percent of its pregnant clients in school, in comparison to the national dropout rate of 80 percent, and by re-enrolling one in six pregnant clients who were out of school prior to joining the program; and (3) improving service utilization by assisting pregnant and parenting youngsters in gaining necessary services, including, among others, prenatal care, nutrition services, well-baby care, adoption services, childcare, psychosocial services, drug abuse counseling and treatment, transportation and housing, and vocational education.

SEC. 2. Section 14021.7 is added to the Welfare and Institutions Code, to read:

14021.7. (a) The department shall amend the state plan for medical assistance under the Medicaid program pursuant to subdivision (g) of Section 1396n of Title 42 of the United States Code, to add targeted case management services for those pregnant and parenting adolescents and their children, targeted by the department, in those localities served on January 1, 1991, by the Adolescent Family Life Program (Article 3.2 (commencing with Section 309.100) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), as a covered benefit under the Medi-Cal program. The department shall submit the amended plan for federal approval by April 1, 1991.

(b) For purposes of this section, the term "targeted case management services" shall be defined as those services provided to pregnant and parenting adolescents pursuant to Article 3.2 (commencing with Section 309.100) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

(c) Upon federal approval for federal financial assistance, the department shall establish the standards under which targeted case management services qualify as a Medi-Cal reimbursable service, subject to the availability of funding through the budget process, and shall develop an appropriate rate of reimbursement, subject to utilization controls.

SEC. 3. Section 14132.49 is added to the Welfare and Institutions Code, to read:

14132.49. (a) Upon federal approval of the state plan amendments made pursuant to Section 14021.7 for federal financial assistance, targeted case management, pursuant to subdivision (g) of Section 1396n of Title 42 of the United States Code, is covered as a benefit, subject to the availability of funding through the budget process, and subject to utilization controls, for pregnant and parenting adolescents and their children.

(b) The coverage by Medi-Cal for case management services provided for in this section shall, for an initial period not to exceed two years, be implemented as a demonstration program only. This demonstration program shall be conducted in six of the adolescent family life programs in the state, as determined by the department

and with the agreement of the participating programs. Of the six programs included in the demonstration program, two shall be in urban areas in southern California, two in urban areas in northern California, and two in rural areas, at least one of which shall be in the San Joaquin Valley.

(c) After the initial two-year period of implementation as a demonstration program, the department may continue, expand, or terminate the program. This determination shall be based on: (1) the department's assessment of the effect of Medi-Cal funding for services on the effectiveness of the Adolescent Family Life Program, (2) a determination of the amount of federal funds received for this demonstration project, and (3) an estimate of the amount of federal funds that could be received by expanding the project to all adolescent family life programs statewide.

SEC. 4. It is the intent of the Legislature that the state shall maintain the level of state funding that has been provided through appropriations in the annual Budget Act for support of the Adolescent Family Life Program (Article 3.2 (commencing with Section 309.100) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), so that to the extent that federal financial participation available through the Medi-Cal program provides funds for the Adolescent Family Life Program, thereby reducing the amount of General Fund expenditures necessary for that program, those General Fund savings shall be used to improve and expand the Adolescent Family Life Program.

CHAPTER 721

An act to add Section 5025.5 to the Food and Agricultural Code, relating to pest control.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

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

(a) California's economic, cultural, and ethnic diversity has made this state one of the world centers for commerce, technology, education, and economic opportunity, which attracts visitors and businesses from around the world.

(b) As a result of increased travel and shipments of goods into California from domestic and international destinations, the potential for the introduction of exotic pests will increase in future years, which will pose a serious threat to the public health, the environment, and the economy of the state.

(c) Pest infestations can seriously threaten the health, welfare,

and economy of the state through the increased use of pesticides to eliminate pests and through domestic and international economic sanctions and quarantines of California agricultural commodities.

(d) It is the policy of the state to lessen the use of pesticides and, therefore, in order for California's agricultural industry to remain economically competitive, improved pest management practices should be developed.

(e) There is an urgent need for research on the control of exotic insect species which have, or may, become serious pests.

(f) It is in the best interest of this state to determine the desirability and feasibility of establishing a facility to conduct research and biological impact assessments on exotic pests, biological control programs, exotic potential beneficial organisms, and integrated pest management programs.

SEC. 2. Section 5025.5 is added to the Food and Agricultural Code, to read:

5025.5. (a) The department, in consultation with the University of California, the United States Department of Agriculture, and members of the scientific community with expertise in exotic pest managment, shall conduct a study on the desirability and feasibility of establishing an Exotic Pest Research Containment Facility, which shall, as a primary function, conduct exotic pest research and perform additional activities with respect to the administration, training, service, and diagnostics relating to exotic pests. The research of the facility shall emphasize flexibility and adaptability to accommodate technological advances and research into new exotic pest problem areas. The study shall include, but not be limited to, the following:

(1) The availability of funding for the facility from federal, state, local, and private sources.

(2) Whether to locate the facility within or outside of California.

(3) Protocol for access to and operation of the facility.

(b) The department shall report its findings and recommendations to the Legislature, not later than January 1, 1992.

CHAPTER 722

An act to amend Sections 8051.1, 8051.2, and 9056 of the Fish and Game Code, relating to sea urchins, and making an appropriation therefor.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 8051.1 of the Fish and Game Code is amended 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.

(b) 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. Section 8051.2 of the Fish and Game Code is amended to read:

8051.2. (a) The landing tax collected pursuant to Section 8051.1 shall be deposited in the Fish and Game Preservation Fund and 60 percent of the revenue deposited shall be used solely for the Sea Urchin Resources Enhancement Program in support of the recommendations of the committee established by subdivision (c) and other sea urchin resource enhancement measures as provided in the annual Budget Act. The remaining 40 percent of the revenue shall be used solely for research and management activities to monitor and maintain the sea urchin resource. The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of Sea Urchin Resources Enhancement Program funds and research and management funds are met.

(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the fund pursuant to subdivision (a), may be used by the department for the administration of the Sea Urchin Resources Enhancement Program and the research and management activities, including any reasonable and necessary expenses.

(c) A Commercial Sea Urchin Advisory Committee shall be established consisting of 12 members selected by the director. One member shall be chosen from the personnel of the department. Ten 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. Five of the industry members shall be from northern California, two representing divers and three representing processors. At least one of the northern California processor representatives shall reside in a geographical area other than Fort Bragg. Five of the industry members shall be from southern California, three representing divers and two representing processors. One of the southern California diver representatives shall reside in a geographical area south of Santa Barbara. The area marine coordinator from the University of California at Davis shall be the other member.

For the money available to the Sea Urchin Resource Enhancement Program, the committee may annually submit to the department proposed projects and a budget for the program. The department,

after conducting a public review and discussion, shall incorporate all or part of the proposed projects and budget recommendations in its submittal to the Governor's Budget.

(d) The advisory committee established in subdivision (c) shall investigate the potential for its transition to a sea urchin council.

(e) The department shall submit to the Legislature a report of its findings and recommendations for enhancement of the sea urchin resource on or before January 1, 1992, including the recommendations of the Commercial Sea Urchin Advisory Committee regarding the transition to a Sea Urchin Council and the recommendations regarding enhancement of the sea urchin resource.

(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. 3. Section 9056 of the Fish and Game Code is amended to read:

9056. The department shall study or contract for a study to determine the health of the sea urchin fishery in state waters, 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 consultation with the advisory committee.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 723

An act to amend Section 531.2 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 531.2 of the Revenue and Taxation Code is amended to read:

531.2. (a) When the property is real property which subsequent to July 1 of the year of escape for purposes of this article, or subsequent to July 1 of the year in which the property should have been lawfully assessed, for purposes of Article 3 (commencing with Section 501), but prior to the date of that assessment and the showing thereof on the secured roll, with the date of entry specified thereon, has (1) been transferred or conveyed to a bona fide purchaser for value, or (2) become subject to a lien of a bona fide encumbrance for value, the escape assessment pursuant to either of these articles shall not create or impose a lien or charge on that real property, but shall be entered on the unsecured roll in the name of the person who would have been the assessee in the year in which it escaped assessment and shall thereafter be treated and collected like other taxes on that roll. The tax rate applicable shall be the secured tax rate of the year in which the property escaped assessment.

(b) If the real property escaped assessment as a result of an unrecorded change in ownership or change in control for which a change in ownership statement required by Section 480, 480.1, or 480.2 is not filed, the assessor shall appraise the property as of the date of transfer and enroll the difference in taxable value for each of the subsequent years on the secured roll, with the date of entry specified thereon. However, if prior to the date of the assessment the property has (1) been transferred or conveyed to a bona fide purchaser for value, or (2) become subject to a lien of a bona fide encumbrance for value, the escape assessment pursuant to this paragraph shall not create or impose a lien or charge on that real property, but shall be entered on the unsecured roll in the name of the person who would have been the assessee in the year in which it escaped assessment and shall thereafter be treated and collected like other taxes on that roll. The tax rate applicable shall be the secured rate of the year in which the property escaped assessment. Notwithstanding the provisions of Section 532, escaped assessments resulting from these unrecorded changes in ownership or changes in control shall be made within eight years after July 1 of the assessment year in which the real property escaped taxation or was underassessed. "Assessment year" means the period defined in Section 118.

In the event of a failure to file a change in ownership statement

required by Section 480, 480.1, or 480.2, the interest provided in Section 506 may, by the order of the board of supervisors, be added.

(c) (1) Taxes resulting from escape assessments shall be prorated pursuant to paragraphs (2) to (5), inclusive, only if the board of supervisors of a county has adopted a resolution specifying that taxes shall be prorated pursuant to this subdivision.

(2) When real property has been transferred or conveyed to a bona fide purchaser for value subsequent to July 1 of the year of escape for purposes of this article, or subsequent to July 1 of the year in which the property should have been lawfully assessed, for purposes of Article 3 (commencing with Section 501), taxes resulting from escape assessments pursuant to this section shall be prorated between the following:

(A) The person who would have been the assessee if the change in ownership had not occurred.

(B) The person who purchased the property.

(3) If the real property has been transferred or conveyed to a bona fide purchaser for value more than once during the year of escape or assessment, each owner of record during that period shall be liable for a pro rata share of taxes based on the length of time during that period each bona fide purchaser was the record owner of that real property.

(4) When the assessor has identified the fact and amount of the escape assessment, the assessor shall identify the owners of record during the year of escape or assessment and the dates of ownership for each owner.

(5) The auditor shall compute the respective prorated shares of taxes for each owner of record. The share of taxes of the current owner of the real property shall be placed on the secured roll as a lien on the parcel for which the escaped assessment was discovered. The share of taxes of any previous owner during the year of escape or assessment shall be entered on the unsecured roll.

CHAPTER 724

An act to amend Section 44670.3 of the Education Code, relating to schools.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 44670.3 of the Education Code is amended to read:

44670.3. School development plans authorized by this article shall include staff development activities directly related to the annual school improvement objectives developed in accordance with

Section 44670.4, and shall assist personnel at the local school site to do the following:

(a) Improve instructional practices in each subject, strengthen subject matter knowledge, and improve support services based on a continuing examination of instruction and learning in the subject areas offered by the school. That examination shall include research, if any, based on classroom experience that is conducted by teachers in accordance with those research standards and procedures that are generally accepted in higher education.

(b) Ensure that subject matter requirements, instructional strategies, and instructional materials meet uniformly high academic standards and are responsive to the diversity among pupil learning needs and styles in a multicultural society, including underachieving pupils and pupils with exceptional abilities or needs.

(c) Review, select, and learn to utilize curricula and instructional materials in a wide variety of subject areas, giving consideration to the state-recommended curriculum framework and model curriculum standards in each subject matter area.

(d) Address ways in which educational technology can support the instructional program.

(e) Improve the school and classroom environments, including working relationships with parents and other community members.

(f) Improve pupil attendance.

CHAPTER 725

An act to add Article 6.5 (commencing with Section 8593) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to emergency services.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

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

(a) California's 1,837,645 deaf and hearing-impaired residents should have visual access to information broadcast during times of emergencies or disasters.

(b) On October 17, 1989, information regarding the earthquake disaster was not broadcast in any way accessible to the deaf or hearing impaired for 17 hours after the intitial earthquake.

It is the intent of this act to coordinate efforts between the State Office of Emergency Services, deaf advocacy groups, television broadcasters, and local emergency services entities to ensure that the needs of the deaf and hearing impaired are addressed in the state emergency plan.

SEC. 2. Article 6.5 (commencing with Section 8593) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 6.5. Accessibility to Emergency Services Information

8593. The Office of Emergency Services shall work with advocacy groups representing the deaf and hearing impaired, including, but not limited to, the California Association of the Deaf and the Coalition of Deaf Access Providers, California television broadcasters, city and county emergency services coordinators, and, as appropriate, the Federal Emergency Management Agency and the Federal Communications Commission, to improve communication with deaf and hearing-impaired persons during emergencies, including the use of open captioning by California television broadcasters when transmitting emergency information.

8593.1. The Office of Emergency Services shall investigate the feasibility of, and the funding requirements for, establishing a "Digital Emergency Broadcast System" network, to be used by local and state government agencies for the provision of warnings and instructions in digital or printed form to California broadcast outlets for relay to the public both orally and visually, through television, and orally, through radio, during emergencies.

8593.2. The Office of Emergency Services shall investigate the feasibility of establishing a toll-free 800 telephone hotline, including TDD (telecommunications device for the deaf) accessibility, which would be accessible to the public, including deaf, hearing impaired, and non- English speaking persons, for use during nonemergency and emergency periods to respond to inquiries about emergency preparedness and disaster status.

8593.3. The Office of Emergency Services shall prepare and submit to the Legislature, on or before December 31, 1991, a report which shall include the following:

(a) A description of the office's activities undertaken pursuant to Section 8593, including the results of these activities, and the preparedness of each California television broadcaster to employ open captioning when transmitting emergency information.

(b) The results of the investigations required by Sections 8593.1 and 8593.2.

CHAPTER 726

An act to amend Sections 436.19 and 436.20 of the Health and Safety Code, relating to health facility construction loan insurance.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 436.19 of the Health and Safety Code is amended to read:

436.19. Debentures issued under this chapter shall be in the form and denomination, subject to the terms and conditions, and include provisions for redemption, if any, as may be prescribed by the office with the approval of the State Treasurer, and may be in coupon or registered form.

SEC. 2. Section 436.20 of the Health and Safety Code is amended to read:

436.20. All debentures issued under this chapter to any lender or bondholder shall be executed in the name of the fund as obligor, shall be signed by the State Treasurer, and shall be negotiable. Pursuant to Sections 436.13 and 436.14, all debentures shall be dated as of the date of the institution of foreclosure proceedings or as of the date of the acquisition of the property after default by other than foreclosure, or as of another date as the office, in its discretion, may establish. The debentures shall bear interest from that date at a rate approved by the State Treasurer, equal to either the rate applicable to the most recent issue of State General Fund bonds or that specified in Section 436.14, which shall be payable on the dates as the office, in its discretion, may establish except in the case of bonds or other evidences of indebtedness as specified in Section 436.14, and shall have the same maturity date as the loan which they insured. All debentures shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the state or local taxing agencies, shall be paid out of the fund, which shall be primarily liable therefor, and shall be, pursuant to Section 4 of Article XVI of the California Constitution, fully and unconditionally guaranteed as to principal and interest by the State of California, which guaranty shall be expressed on the face of the debentures. In the event that the fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this chapter, the State Treasurer shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the State Treasurer shall succeed to all the rights of the holders of the debentures. The fund shall be liable for repayment to the Treasury of any money paid therefrom pursuant to this section in accordance with procedures jointly established by the State Treasurer and the

office.

CHAPTER 727

An act to add Sections 19312 and 19401.5 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 19312 is added to the Revenue and Taxation Code, to read:

19312. The Franchise Tax Board shall, in preparing tax forms, include the following statement adjacent to the signature line of any income tax return required to be filed by a married individual:

"It is unlawful to forge a spouse's signature."

SEC. 2. Section 19401.5 is added to the Revenue and Taxation Code, to read:

19401.5. (a) Any person who signs his or her spouse's name on any income tax return, or any schedules or attachments thereto, without the consent of the spouse as provided in subdivision (b), is guilty of a misdemeanor and shall upon conviction be fined an amount not to exceed five thousand dollars ($5,000) or be imprisoned for a term not to exceed one year, or both, at the discretion of the court, together with costs of investigation and prosecution.

(b) Notwithstanding subdivision (a), any person who signs his or her spouse's name shall not be guilty of a misdemeanor when one spouse is physically unable by reason of disease or injury to sign a joint return, the other spouse may with the oral consent of the one who is incapacitated, sign the incapacitated spouse's name in the proper place on the return followed by the words "By _____, Husband (or Wife)," and by the signature of the signing spouse in his or her own right, provided that a dated statement signed by the spouse who is signing the return is attached to and made a part of the return stating each of the following:

(1) The name of the return being filed.

(2) The taxable year.

(3) The reason for the inability of the spouse who is incapacitated to sign the return.

(4) That the spouse who is incapacitated consented to the signing of the return and that the taxpayer and his or her agent, if any, are responsible for the return as made and incur liability for the penalties provided for erroneous, false, or fraudulent returns.

(c) The penalties provided by this section are cumulative and shall not be construed as restricting any other penalty provided by law based upon the same facts, including any penalty under Section

470 of the Penal Code. However, an act or omission which is made punishable in different ways by this section and different provisions of the Penal Code shall not be punished under more than one provision.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 728

An act to amend Sections 10085, 10131.1, 10153.3, 10232.1, and 10471 of the Business and Professions Code, relating to real estate.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 10085 of the Business and Professions Code is amended to read:

10085. The commissioner may require that any or all materials used in obtaining advance fee agreements, including but not limited to the contract forms, letters or cards used to solicit prospective sellers, and radio and television advertising be submitted to him or her at least 10 calendar days before they are used. Should the commissioner determine that any such matter, when used alone or with any other matter, would tend to mislead he or she may, within 10 calendar days of the date he or she receives same, order that it not be used, disseminated, nor published. Any person using, disseminating, or publishing any matter which the commissioner has ordered, pursuant to this section, not to be used, published, or disseminated shall be guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail not exceeding six months, or both, for each such use, dissemination, or publication.

The commissioner may determine the form of the advance fee agreements, and all material used in soliciting prospective owners and sellers shall be used in the form and manner which he or she determines is necessary to carry out the purposes and intent of this part.

Any violation of any of the provisions of this part or of the rules,

regulations, orders or requirements of the commissioner thereunder shall constitute grounds for disciplinary action against a licensee, or for proceedings under Section 10081 of this code, or both. These sanctions are in addition to the criminal proceedings hereinbefore provided.

SEC. 2. Section 10131.1 of the Business and Professions Code is amended to read:

10131.1. A real estate broker within the meaning of this part is also a person who engages as a principal in the business of buying from, selling to, or exchanging with the public, real property sales contracts or promissory notes secured directly or collaterally by liens on real property, or who makes agreements with the public for the collection of payments or for the performance of services in connection with real property sales contracts or promissory notes secured directly or collaterally by liens on real property.

As used in this section, "in the business" means any of the following:

(a) The acquisition for resale to the public, and not as an investment, of eight or more real property sales contracts or promissory notes secured directly or collaterally by liens on real property during a calendar year.

(b) The sale to or exchange with the public of eight or more real property sales contracts or promissory notes secured directly or collaterally by liens on real property during a calendar year. However, no transaction negotiated through a real estate licensee shall be considered in determining whether a person is a real estate broker within the meaning of this section.

As used in this section, "sale," "resale," and "exchange" include every disposition of any interest in a real property sales contract or promissory note secured directly or collaterally by a lien on real property, except the original issuance of a promissory note by a borrower or a real property sales contract by a vendor, either of which is to be secured directly by a lien on real property owned by the borrower or vendor.

SEC. 3. Section 10153.3 of the Business and Professions Code is amended to read:

10153.3. In order to take an examination for a real estate salesperson license after January 1, 1986, an applicant shall submit evidence, satisfactory to the commissioner, of successful completion, at an accredited institution, of a three-semester unit course, or the quarter equivalent thereof, in real estate principles.

The commissioner shall waive the requirements of this section for an applicant who is a member of the State Bar of California, or who has completed an equivalent course of study, as determined under Section 10153.5, or who has qualified to take the examination for an original real estate broker license by satisfying the requirements of Section 10153.2.

SEC. 4. Section 10232.1 of the Business and Professions Code is amended to read:

10232.1. (a) A real estate broker who meets the criteria of Section 10232 shall, prior to the use of any proposed advertisement in connection with the conduct of activities described in subdivisions (d) and (e) of Section 10131 and Section 10131.1, submit a true copy thereof to the Department of Real Estate for clearance. If disapproval of the proposed advertisement is not communicated by the department to the broker within 15 calendar days after receipt of the copy of the proposed advertisement by the department, the proposed advertisement shall be deemed approved, but the department shall not thereby be estopped from disapproving a later publication or other use of the same, or similar advertising.

The commissioner shall adopt regulations pertaining to the submittal and clearance of such advertising and establishing criteria for approval to insure that the public will be protected against false or misleading representations.

Except as provided in subdivision (b), "advertisement" includes dissemination in any newspaper, circular, form letter, brochure or similar publication, display, sign, radio broadcast or telecast, which concerns (1) the use, terms, rates, conditions, or the amount of any loan or sale referred to in subdivisions (d) and (e) of Section 10131 or Section 10131.1 or (2) the security, solvency, or stability of any person carrying on the activities described in those sections.

(b) "Advertisement" does not include a letter or brochure which is:

(1) Restricted in distribution to other real estate brokers and to persons for whom the broker has previously acted as agent in arranging a loan secured by real property or in the purchase, sale, or exchange of a deed of trust or real property sales contract; and

(2) Restricted in content to the identification and a description of the terms of loans, mortgages, deeds of trust, and real property sales contracts offered for funding or purchase through the broker as agent.

(c) Subdivision (a) is not applicable to advertising that is used exclusively in connection with an offering authorized by permit issued pursuant to the provisions of Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following of the Corporations Code).

SEC. 5. Section 10471 of the Business and Professions Code is amended to read:

10471. (a) When an aggrieved person obtains a final judgment in a court of competent jurisdiction or an arbitration award which includes findings of fact and conclusions of law rendered in accordance with the rules established by the American Arbitration Association or another recognized arbitration body, and in accordance with Sections 1281 to 1294.2, inclusive, of the Code of Civil Procedure where applicable, and where the arbitration award has been confirmed and reduced to judgment pursuant to Section 1287.4 of the Code of Civil Procedure, against a defendant based upon the defendant's fraud, misrepresentation, or deceit, made with

intent to defraud, or conversion of trust funds arising directly out of any transaction not in violation of Section 10137 or 10138 in which the defendant, while licensed under this part, performed acts for which that license was required, the aggrieved person may, upon the judgment becoming final, file an application with the Department of Real Estate for payment from the Recovery Account, within the limitations specified in Section 10474, of the amount unpaid on the judgment which represents an actual and direct loss to the claimant in the transaction.

(b) The application shall be delivered in person or by certified mail to an office of the department not later than one year after the judgment has become final.

(c) The application shall be made on a form prescribed by the department, verified by the claimant, and shall include the following:

(1) The name and address of the claimant.

(2) If the claimant is represented by an attorney, the name, business address, and telephone number of the attorney.

(3) The identification of the judgment, the amount of the claim and an explanation of its computation.

(4) A detailed narrative statement of the facts in explanation of the allegations of the complaint upon which the underlying judgment is based.

(5) A statement by the claimant, signed under penalty of perjury, that the complaint upon which the underlying judgment is based was prosecuted conscientiously and in good faith. As used in this section, "conscientiously and in good faith" means that no party potentially liable to the claimant in the underlying transaction was intentionally and without good cause omitted from the complaint, that no party named in the complaint who otherwise reasonably appeared capable of responding in damages was dismissed from the complaint intentionally and without good cause, and that the claimant employed no other procedural tactics contrary to the diligent prosecution of the complaint in order to provide access to the Recovery Account.

(6) The name and address of the judgment debtor or, if not known, the names and addresses of persons who may know the judgment debtor's present whereabouts.

(7) The following representations and information from the claimant:

(A) That he or she is not a spouse of the judgment debtor nor a personal representative of the spouse.

(B) That he or she has complied with all of the requirements of this chapter.

(C) That the judgment underlying the claim meets the requirements of subdivision (a).

(D) A description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied to satisfaction of the judgment, an

itemized valuation of the assets discovered, and the results of actions by the claimant to have the assets applied to satisfaction of the judgment.

(E) That he or she has diligently pursued collection efforts against other judgment debtors and all other persons liable to the claimant in the transaction that is the basis for the underlying judgment.

(F) That the underlying judgment and debt have not been discharged in bankruptcy, or, in the case of a bankruptcy proceeding that is open at the time of the filing of the application, that the judgment and debt have been declared to be nondischargeable.

(G) That the application was mailed or delivered to the department no later than one year after the underlying judgment became final.

(d) The application form shall include detailed instructions with respect to documentary evidence, pleadings, court rulings, the products of discovery in the underlying litigation, and a notice to the applicant of his or her obligation to protect the underlying judgment from discharge in bankruptcy, to be appended to the application.

CHAPTER 729

An act to add Section 10133.3 to the Business and Professions Code, relating to real estate brokers.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 10133.3 is added to the Business and Professions Code, to read:

10133.3. The provisions of Sections 10131 and 10131.2 relating to business opportunities do not apply to any person, partnership, corporation, or other legal entity which for another or others sells or offers to sell, solicits prospective sellers or purchasers of, solicits or obtains listings of, advertises for sale, buys or offers to buy, or negotiates the purchase, sale, or exchange of radio, television, or cable enterprises which are licensed and regulated by the Federal Communications Commission, or any successor agency, pursuant to the Communications Act of 1934, as amended and which purchase, sale, or exchange is not in substance a transfer of real property.

CHAPTER 730

An act to amend Sections 52861, 52865, 52871, 52891, 52893, 52901, 52931, 52932, 52934, 52936, and 52972 of, to amend the headings of Chapter 4 (commencing with Section 52851) of Division 18 and Article 3 (commencing with Section 52871) of Chapter 4 of Division 18 of, to add Section 52891.1 to, and to repeal and add Article 1 (commencing with Section 52851) of Chapter 4 of Division 18 of, the Food and Agricultural Code, relating to cotton.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. The heading of Chapter 4 (commencing with Section 52851) of Division 18 of the Food and Agricultural Code is amended to read:

CHAPTER 4. SAN JOAQUIN VALLEY QUALITY COTTON DISTRICT

SEC. 2. Article 1 (commencing with Section 52851) of Chapter 4 of Division 18 of the Food and Agricultural Code is repealed.

SEC. 3. Article 1 (commencing with Section 52851) is added to Chapter 4 of Division 18 of the Food and Agricultural Code, to read:

Article 1. General Provisions

52851. The Legislature hereby declares that the purposes of this chapter are to promote, encourage, aid, and protect the planting and growing of cotton in the State of California; that it believes that these purposes can best be accomplished by restricting within certain areas the planting and growing of but two types of cotton, which are Acala and Pima; that, by this means alone, it is possible to bring the cotton-growing industry in the state to its highest possible development and to ensure the growing of the most superior varieties of cotton; that the planting of pure seed is essential to the production of more marketable and better grades of cotton and cottonseeds, and for the production of grades of fiber best suited for manufacturing purposes; and that the planting of impure seeds or plants, other than those permitted in these areas, is an economic harm and loss to the planter thereof and an irreparable injury to the adjoining or neighboring growers.

52852. The Legislature also declares that the restriction of the use to which cotton lands may be used, as provided in this chapter, is essential to the highest development of the cotton-growing industry; that it is essential that only two types of cotton, Acala and Pima, should be ginned in the district which is established by this chapter, otherwise the gin will mix the different types of seed, crossing will

take place in the field, the varieties will be mongrelized and cease to be uniform, the fiber will deteriorate in quality, and the seed will be rendered unfit for planting; that solely by restricting the growing of these two types of cotton in certain areas can the fibers be grown of uniform high quality, and can the production of fiber with superior spinning performance be promoted and maintained.

52853. The Legislature declares that the development of varieties or species of cotton which meet the desired quality of Acala or Pima cotton should be encouraged, if reasonable restrictions are imposed to prevent contamination and preserve integrity of the high quality cotton produced within the district.

52854. The production and marketing of Acala and Pima cotton produced in this state is hereby declared to be affected with public interest. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

52855. No action taken by the board, nor by an individual in accordance with this chapter or pursuant to the regulations adopted under this chapter, is a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

52856. The Legislature further declares that all cotton approved for planting in the district is for the benefit of the cotton growing industry and is not for the exclusive or limited use of any person.

SEC. 4. Section 52861 of the Food and Agricultural Code is amended to read:

52861. "Board" means the San Joaquin Valley Cotton Board.

SEC. 5. Section 52865 of the Food and Agricultural Code is amended to read:

52865. "District" means the "San Joaquin Valley Quality Cotton District" which is comprised of all the counties in the San Joaquin Valley where cotton is produced.

SEC. 6. The heading of Article 3 (commencing with Section 52871) of Chapter 4 of Division 18 of the Food and Agricultural Code is amended to read:

Article 3. San Joaquin Valley Cotton Board

SEC. 7. Section 52871 of the Food and Agricultural Code is amended to read:

52871. There is in the state government the San Joaquin Valley Cotton Board. The board shall be composed of 10 cottongrowers, as provided for in subdivision (a), six cotton industry members operating in the San Joaquin Valley, and one public member.

(a) The grower members shall be elected by the cottongrowers in the county they represent, as follows:

(1) There shall be six elected growers representing each of the significant cotton producing counties within the district.

(2) There shall be an additional elected grower from each of the four counties producing the largest quantity of cotton in the district.

(b) The six cotton industry members shall be elected as follows:

(1) Two members elected from and by cottonseed processing organizations involved in seed crushing operations.

(2) Two members elected from and by handlers of raw cotton fiber.

(3) Two members elected from and by cotton ginning organizations.

(c) One public member shall be appointed by the director. The board shall submit a list of three public members to the director. The director shall choose one public member from the list to serve as a member on the board. If the director determines that those on the list are unacceptable, the board shall submit a new list containing the names of three public members from which the director shall choose one. This procedure shall continue until a public member has been selected by the director to serve on the board.

(d) In addition, the board shall select one representative each from the United States Department of Agriculture and the University of California; and two representatives each from cotton planting seed delinting organizations, and organizations involved in the reproduction, sale, and distribution of cottonseed in the district, to serve as nonvoting ex officio members of the board. These members shall not be selected from the same organization.

SEC. 8. Section 52891 of the Food and Agricultural Code is amended to read:

52891. The powers and duties of the board shall include, but not be limited to, all of the following:

(a) Establish a separate Acala and Pima quality standard for all cotton grown within the district. When determining each standard, the board shall consider fiber length, strength, uniformity, micronaire, seed quality, productivity, resistance to disease, including verticillium wilt, and spinning characteristics.

(b) Annually review test data and approve for release and planting within the district, cotton varieties which meet the existing Acala or Pima quality standard but are superior in some meaningful respect, as determined by the board, and which is generally recognized by the cotton industry to be an essential factor in producing that cotton within the district, or significant area within the district.

(c) Conduct or commission tests for cotton production and quality evaluation in accordance with procedures to be adopted pursuant to Section 52902, and assess fees necessary for administering those tests.

(d) Conduct periodic referendums, as specified in this chapter, regarding the continuation of the district. A referendum shall also be conducted whenever the board proposes substantive changes in the Acala or Pima quality standard.

(e) Require all cotton varieties approved for release for planting, and produced in the district, to contain the word "Acala" or "Pima" in labeling and all lint to be marketed as "SJV Acala" or "SJV Pima."

(f) Recommend to the director on all matters pertaining to this chapter including, but not limited to, the program for enforcing this chapter and the setting of an appropriate seed assessment rate necessary for the administration of this chapter.

SEC. 9. Section 52891.1 is added to the Food and Agricultural Code, to read:

52891.1. (a) The board may, by resolution, determine issues that are in the best interest of the cotton industry in the district, which shall not be limited to the growing of cottons other than Acala and Pima. The board shall authorize the conduct of referendums among all the cottongrowers in the district to vote upon the issues concerning the district. The resolution may contain provisions to protect the quality and integrity of approved fiber and seed grown within the district.

(b) The referendum shall be conducted by the director, upon the request of the board, using information supplied by the board and such other information as determined by the director, or a referendum shall be conducted by the director if a petition signed by not less than 5 percent of the qualified cottongrowers in the district is presented to the board. The costs of any referendum conducted pursuant to this chapter shall be paid from funds collected pursuant to this chapter.

(c) If the director finds that the resolution has been approved in the manner specified in Section 52932, the director shall so certify to the board, which shall then make the approved resolution effective as an order of the board within 10 days after the certification by the director.

SEC. 10. Section 52893 of the Food and Agricultural Code is amended to read:

52893. The board may require that all cottonseed delinted for planting within the district shall be certified by a qualified seed certification agency as provided by subdivision (d) of Section 52482.

SEC. 11. Section 52901 of the Food and Agricultural Code is amended to read:

52901. The planting, possessing for planting, growing, picking, harvesting, ginning of cotton, delinting of cottonseed, or sale of lint by anyone conducting research on nonapproved varieties shall be in compliance with regulations adopted by the department. The department shall also adopt regulations to accomplish all of the following purposes:

(a) To maintain the integrity of approved Acala or Pima cotton and prevent contamination of those types of cotton.

(b) To require that growers notify the department regarding the location of test sites and of the dates and procedures for planting, harvesting, and ginning of cotton.

(c) To establish a procedure for importing cottonseed into the

district.

SEC. 12. Section 52931 of the Food and Agricultural Code is amended to read:

52931. A referendum of all cottongrowers within the district shall be conducted if a petition, signed by not less than 5 percent of the cottongrowers in the district is submitted to the director, which calls for a referendum pertaining to the operation of this chapter.

SEC. 13. Section 52932 of the Food and Agricultural Code is amended to read:

52932. This chapter shall remain operative if either of the following conditions are met:

(a) Not less than 65 percent of the cottongrowers certified by the director who voted in that referendum, voted in favor of this chapter, and that those cottongrowers so voting represent at least a majority of the cotton producing acreage of all cottongrowers who voted in that referendum.

(b) At least a majority of those cottongrowers who voted in that referendum voted in favor of this chapter and that those cottongrowers so voting represent not less than 65 percent of the cotton producing acreage of all cottongrowers who voted in that referendum.

SEC. 14. Section 52934 of the Food and Agricultural Code is amended to read:

52934. If the director finds that a favorable vote has been given as provided in Section 52932, he or she shall so certify and give notice of that favorable vote to the cottongrowers in the district.

SEC. 15. Section 52936 of the Food and Agricultural Code is amended to read:

52936. In addition to Section 52931, the board may hold a referendum vote whenever the board proposes changes to the Acala or Pima quality standard as provided for in Section 52891.

SEC. 16. Section 52972 of the Food and Agricultural Code is amended to read:

52972. Except as otherwise provided in Article 5 (commencing with Section 52901), in the district established by this chapter, it is unlawful for any person to plant, possess for planting, pick, harvest, gin, or delint any cotton except those seeds or plants that are approved by the board for planting within the district.

SEC. 17. 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 731

An act to amend Section 8911 of, and to amend and renumber the heading of Article 6.5 (commencing with Section 8910) of Part 6 of, the Education Code, relating to pregnant and parenting teen programs.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. The heading of Article 6.5 (commencing with Section 8910), of Part 6 of the Education Code is amended and renumbered to read:

CHAPTER 6.5. COORDINATION OF PROGRAMS SERVING PREGNANT AND PARENTING TEENS

SEC. 2. Section 8911 of the Education Code is amended to read:

8911. (a) The Superintendent of Public Instruction shall give highest priority to the awarding of new and continuing funds for programs serving pregnant and parenting teens to those school districts, consortiums of school districts, or county superintendents which satisfy the criteria and standards that the State Department of Education may establish for the award of new and continuing funds and which have a plan, approved by the Superintendent of Public Instruction, for coordination of pregnant and parenting teen programs available to teens within the applicable area, including, but not limited to, coordination of public and private social welfare and health service programs. Existing programs may continue to receive funding at the discretion of the Superintendent of Public Instruction and shall submit a plan for the coordination of programs serving pregnant and parenting teens on or before June 30, 1992.

(b) The plan shall address the following goals:

(1) Mobilizing existing services.

(2) Preventing school dropouts.

(3) Encouraging school reentry.

(4) Preventing second pregnancies.

(5) Providing pregnant and parenting teens with employability skills, and thereby assisting them to avoid dependency on public social services.

(6) Ensuring that transitional education services are provided to pregnant and parenting teens between the secondary and postsecondary levels.

(7) Ensuring that transitional services are provided to help pregnant and parenting teens who seek employment following completion of their secondary education.

(8) Improving health and nutrition.

(9) Providing adequate child care.

(10) Developing parenting skills.

(11) Providing transportation services between home and program sites to pregnant and parenting teens.

(c) The plan shall include at a minimum the following information with regard to the applicable area: the incidence of teen pregnancy, the current educational and child development resources, the current public and private resources impacting on pregnant and parenting teens, and a description of service coordinating agreements between the school district, consortium of school districts, or county superintendent and public and private agencies. The plan shall include a component describing transitional service between secondary education and postsecondary programs, and an evaluation of the impact of coordinated and comprehensive service on school dropouts, repeat pregnancies, and low infant birthweights.

(d) The plan shall identify regulatory and statutory barriers to coordination of services that exist in programs which benefit pregnant and parenting teens, school age parent-infant development programs, continuation school, independent studies, vocational education, child development, special education, general education, and community colleges. The plan also shall describe the district's specific plans for integrating all appropriate funding and programs to ensure that pregnant and parenting teens receive all available and necessary services. The Superintendent of Public Instruction shall report to the Legislature by June 30, 1993, on the barriers to program coordination as identified in the districts' plans. The information provided by the Superintendent of Public Instruction to the Legislature, regarding program coordination barriers, shall be utilized as an information base in the development of a comprehensive statewide plan for pregnant and parenting teens.

(e) Notwithstanding subdivision (a), the Superintendent of Public Instruction shall notify school districts, consortiums of school districts, and county superintendents regarding the enactment of this section, and shall invite them to submit plans in accordance with this section. The Superintendent of Public Instruction shall collect and disseminate to school districts models of successful coordination plans and shall assist districts, upon request, in the development of coordination plans.

CHAPTER 732

An act to amend Sections 21104 and 21153 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 21104 of the Public Resources Code is amended to read:

21104. (a) Prior to completing an environmental impact report, the state lead agency shall consult with, and obtain comments from, each responsible agency, any public agency which has jurisdiction by law with respect to the project, and any city or county which borders on a city or county within which the project is located unless otherwise designated annually by agreement between the state lead agency and the city or county, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the state lead agency shall, upon the request of the applicant, provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The state lead agency may consult with persons identified by the applicant which the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made a written request to be consulted on the project. A request by the applicant for early consultation shall be made not later than 30 days after the determination required by Section 21080.1 with respect to the project.

(b) The state lead agency shall consult with, and obtain comments from, the State Air Resources Board in preparing an environmental impact report on a highway or freeway project, as to the air pollution impact of the potential vehicular use of the highway or freeway.

(c) A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.

SEC. 2. Section 21153 of the Public Resources Code is amended to read:

21153. Prior to completing an environmental impact report, every local lead agency shall consult with, and obtain comments from, each responsible agency, any public agency which has jurisdiction by law with respect to the project, and any city or county which borders on a city or county within which the project is located unless otherwise designated annually by agreement between the

local lead agency and the city or county, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the local lead agency shall, upon the request of the applicant, provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The local lead agency may consult with persons identified by the applicant which the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made written request to be consulted on the project. A request by the applicant for early consultation shall be made not later than 30 days after the determination required by Section 21080.1 with respect to the project. The local lead agency may charge and collect from the applicant a fee not to exceed the actual costs of the consultations.

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.

CHAPTER 733

An act to amend Section 1367.65 of the Health and Safety Code, and to amend Section 10123.81 of, and to amend and renumber Section 11512.15 of, the Insurance Code, relating to insurance.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 1367.65 of the Health and Safety Code is amended to read:

1367.65. On or after January 1, 1991, every individual or group health care service plan contract which is issued, amended, or renewed and which includes coverage for mastectomy and prosthetic devices and reconstructive surgery incident to mastectomy described in Section 1367.6 shall also be deemed to provide coverage for mammography for screening or diagnostic purposes upon the referral of a nurse practitioner, certified nurse midwife, or physician, providing care to the patient and operating within the scope of practice provided under existing law.

Nothing in this section shall be construed to establish a new mandated benefit or to prevent application of deductible or copayment provisions in a policy or plan, nor shall this section be construed to require that a policy or plan be extended to cover any

other procedures under an individual or a group health care service plan contract. Nothing in this section shall be construed to authorize a plan member to receive the services required to be covered by this section if those services are furnished by a nonparticipating provider, unless the plan member is referred to that provider by a participating physician, nurse practitioner, or certified nurse midwife providing care. The Legislature intends in this section to provide that mammography services are deemed to be covered if the policy or plan includes coverage for mastectomy and reconstructive surgery.

SEC. 2. Section 10123.81 of the Insurance Code is amended to read:

10123.81. On or after January 1, 1991, every individual or group policy of disability insurance or self-insured employee welfare benefit plan which is issued, amended, or renewed and which includes coverage for mastectomy and prosthetic devices and reconstructive surgery incident to the mastectomy described in Section 10123.8 shall also be deemed to provide coverage for at least the following, upon the referral of a nurse practitioner, certified nurse midwife, or physician, providing care to the patient and operating within the scope of practice provided under existing law for breast cancer screening or diagnostic purposes:

(a) A baseline mammogram for women age 35 to 39, inclusive.

(b) A mammogram for women age 40 to 49, inclusive, every two years or more frequently based on the women's physician's recommendation.

(c) A mammogram every year for women age 50 and over.

Nothing in this section shall be construed to require an individual or group policy to cover the surgical procedure known as mastectomy or to prevent application of deductible or copayment provisions contained in the policy or plan, nor shall this section be construed to require that coverage under an individual or group policy be extended to any other procedures.

Nothing in this section shall be construed to authorize an insured or plan member to receive the coverage required by this section if that coverage is furnished by a nonparticipating provider, unless the insured or plan member is referred to that provider by a participating physician, nurse practitioner, or certified nurse midwife providing care.

SEC. 3. Section 11512.15 of the Insurance Code is amended and renumbered to read:

11512.29. On or after January 1, 1991, every individual or group nonprofit hospital service plan contract which is issued, amended, or renewed, and which includes coverage for mastectomy and prosthetic devices and reconstructive surgery incident to the mastectomy described in Section 11512.10 shall also be deemed to provide coverage for mammography for screening or diagnostic purposes upon the referral of a nurse practitioner, certified nurse midwife, or physician, providing care to the patient and operating

within the scope of practice provided under existing law.

Nothing in this section shall be construed to require an individual or group policy to cover the surgical procedure known as mastectomy or to prevent application of deductible or copayment provisions contained in the policy or plan, nor shall this section be construed to require that coverage under an individual or group policy be extended to any other procedures.

Nothing in this section shall be construed to authorize a plan member to receive the coverage required by this section if that coverage is furnished by a nonparticipating provider, unless the plan member is referred to that provider by a participating physician, nurse practitioner, or certified nurse midwife providing care.

As used in this section, "prosthetic devices" means and includes the provision of initial and subsequent prosthetic devices pursuant to an order of the patient's physician.

CHAPTER 734

An act to amend Sections 12081 and 12101 of, and to add Section 12092 to, the Health and Safety Code, relating to explosives.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 12081 of the Health and Safety Code is amended to read:

12081. Except as limited by Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code and Section 18930, the State Fire Marshal shall prepare and adopt, in accordance with Chapter 3.5 (commencing at Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable regulations which are not in conflict with this part, relating to the sale, use, handling, possession, and storage of explosives.

The building standards adopted and submitted for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 and the other regulations adopted by the State Fire Marshal shall:

(a) Make reasonable allowances for storage facilities in existence when the regulations become effective. No allowance, however, shall be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.

(b) Be based on performance standards wherever possible.

(c) Make reasonable allowances for the storage of gunpowder for commercial and private use. No allowance, however, shall be made

for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.

(d) Set uniform requirements for the use and handling of explosives that would apply statewide.

(e) The building standards published in the State Building Standards Code relating to storage of explosives and the other regulations adopted by the State Fire Marshal pursuant to this section shall apply uniformly throughout the State of California, and no city, county, city and county, or other political subdivision of this state, including, but not limited to, a chartered city, county, or city and county, shall adopt or enforce any ordinance or regulation which is inconsistent with this section.

(f) In making the regulations, the State Fire Marshal shall consider as evidence of generally accepted safety standards the publications of the National Fire Protection Association, the United States Bureau of Mines, the United States Department of Defense, and the Institute of Makers of Explosives.

(g) The regulations shall establish standards relating to the size, form, contents, and location of caution placards to be placed on or near storage facilities for class A and B explosives as set forth in Article 77 of the Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc. or similar standards.

SEC. 2. Section 12092 is added to the Health and Safety Code, to read:

12092. Any person who violates any of the requirements prescribed by regulation adopted pursuant to Section 12081 or 12151 shall be assessed a civil penalty of up to one thousand dollars ($1,000) for each violation.

SEC. 3. Section 12101 of the Health and Safety Code is amended to read:

12101. (a) No person shall do any one of the following without first having made application for and received a permit in accordance with this section:

(1) Manufacture explosives.

(2) Sell, furnish, or give away explosives.

(3) Receive, store, or possess explosives.

(4) Transport explosives.

(5) Use explosives.

(6) Operate a terminal for handling explosives.

(7) Park or leave standing any vehicle carrying explosives, except when parked or left standing in or at a safe stopping place designated as such by the Department of the California Highway Patrol under Division 14 (commencing with Section 31600) of the Vehicle Code.

(b) Application for a permit shall be made to the appropriate issuing authority.

(c) (1) A permit shall be obtained from the issuing authority

having the responsibility in the area where the activity, as specified in subdivision (a), is to be conducted.

(2) If the person holding a valid permit for the use or storage of explosives desires to purchase or receive explosives in a jurisdiction other than that of intended use or storage, the person shall first present the permit to the issuing authority in the jurisdiction of purchase or receipt for endorsement. The issuing authority may include any reasonable restrictions or conditions which the authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives within the authority's jurisdiction. If, for any reason, the issuing authority refuses to endorse the permit previously issued in the area of intended use or storage, the authority shall immediately notify both the issuing authority who issued the permit and the Department of Justice of the fact of the refusal and the reasons for the refusal.

(3) Every person who sells, gives away, delivers, or otherwise disposes of explosives to another person shall first be satisfied that the person receiving the explosives has a permit valid for that purpose. When the permit to receive explosives indicates that the intended storage or use of the explosives is other than in that area in which the permittee receives the explosives, the person who sells, gives away, delivers, or otherwise disposes of the explosives shall insure that the permit has been properly endorsed by a local issuing authority and, further, shall immediately send a copy of the record of sale to the issuing authority who originally issued the permit in the area of intended storage or use. The issuing authority in the area in which the explosives are received or sold shall not issue a permit for the possession, use, or storage of explosives in an area not within the authority's jurisdiction.

(d) In the event any person desires to receive explosives for use in an area outside of this state, a permit to receive the explosives shall be obtained from the State Fire Marshal.

(e) A permit may include any restrictions or conditions which the issuing authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives.

(f) A permit shall remain valid only until the time when the act or acts authorized by the permit are performed, but in no event shall the permit remain valid for a period longer than one year from the date of issuance of the permit.

(g) Any valid permit which authorizes the performance of any act shall not constitute authorization for the performance of any act not stipulated in the permit.

(h) An issuing authority shall not issue a permit authorizing the transportation of explosives pursuant to this section if the display of placards for that transportation is required by Section 27903 of the Vehicle Code, unless the driver possesses a license for the transportation of hazardous materials issued pursuant to Division

14.1 (commencing with Section 32000) of the Vehicle Code, or the explosives are a hazardous waste or extremely hazardous waste, as defined in Sections 25117 and 25115 of the Health and Safety Code, and the transporter is currently registered as a hazardous waste hauler pursuant to Section 25163 of the Health and Safety Code.

(i) An issuing authority shall not issue a permit pursuant to this section authorizing the handling or storage of class A or B explosives in a building, unless the building has caution placards which meet the standards established pursuant to subdivision (g) of Section 12081.

SEC. 4. 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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Also, notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 735

An act to add Sections 266, 11729, and 11730 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 266 is added to the Vehicle Code, to read:

266. A "consignment" is an arrangement under which a dealer agrees to accept possession of a vehicle of a type required to be registered under this code from an owner of record for the purpose of selling the vehicle and to pay the owner of record or the owner's designee from the proceeds of the sale. "Consignment" does not include the wholesale sale of a vehicle at a licensed auto auction.

SEC. 2. Section 11729 is added to the Vehicle Code, to read:

11729. Any dealer engaging in a consignment, as defined in Section 266, shall execute a consignment agreement as prescribed by

Section 11730. The failure of a dealer to complete and comply with the terms of the prescribed consignment agreement for any vehicle which the dealer agrees to accept on consignment, or to pay the agreed amount to the consignor or his or her designee within 20 days after the date of sale of the vehicle, is cause for suspending or revoking the license of the dealer under paragraph (10) of subdivision (a) of Section 11705.

SEC. 3. Section 11730 is added to the Vehicle Code, to read:

11730. The consignment agreement required by Section 11729 shall contain all the following terms, phrases, conditions, and disclosures:

(a) The date the agreement is executed.

(b) All of the following statements:

(1) "I(We), the undersigned consigner(s), hereby consign and deliver possession of my(our) vehicle, which is a (Year) _____ (Make) _____ (ID#) _____ (License) _____ (State) _____ (Mileage) _____, to (Consignee) _____ (Dealer #) _____ for the sole purpose of selling the vehicle and paying, to the consignor or his or her designee from the proceeds of the sale of the vehicle, the amount agreed upon under terms of this agreement. This agreement is effective and valid only for a period of _____ days from this date."

(2) "At the termination of this agreement, the consignee shall return the vehicle to the consignor, or, at the option of both the consignor and consignee, enter into a new agreement."

(3) "If the vehicle is sold by the consignee during the term of this agreement, the money due the consignor shall be disbursed within 20 days after the date of sale in accordance with the terms of this agreement. As used in this agreement, a 'sale' occurs when the consignee either (A) receives the purchase price or its equivalent or executes a conditional sales contract for the vehicle, or (B) when the purchaser takes delivery of the vehicle, whichever occurs first."

(4) "The following information shall be completed prior to the signing of this agreement:

Current market value: $_____ Source: _____.

Outstanding liens: $_____ Lienholder: _____.

(Any difference between the outstanding amount shown and the actual payoff to the lienholder will be credited to the consignor.)

Repairs to be made: $_____ Work Order # _____.

Moneys to the consignor: _____ percent of sale price, or flat fee of $_____."

(5) "Within 20 days after sale, the consignee shall make an accounting to the consignor of all of the following: date of sale, sale price, name of purchaser, repairs authorized by consignor (supported by work records), exact amount of any liens payable to lienholders, and evidence of payment."

(6) "The consigned vehicle is delivered to the consignee in trust for the exact terms set forth in this agreement. The consignee agrees to receive this vehicle in trust and not to permit its use for any other

purpose other than contained in this agreement without the express written consent of the consignor."

(7) "Upon payment of the moneys due the consignor, the consignor agrees to furnish the consignee those documents necessary to transfer the ownership of the vehicle to the purchaser.

Signatures:

_____

Consignor Date

_____

Address

_____

Consignee Date

_____ "

Address

(8) "NOTICE TO CONSIGNOR: Failure of the consignee to comply with the terms of this agreement may be a violation of statute which could result in criminal or administrative sanctions, or both. If you feel the consignee has not complied with the terms of this agreement, please contact the Department of Motor Vehicles, Division of Investigations and Occupational Licensing, Bureau of Investigations, via the local Department of Motor Vehicles office."

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 736

An act to add Article 1.5 (commencing with Section 400) to Chapter 4 of Part 1 of Division 1 of the Insurance Code, relating to insurance.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Article 1.5 (commencing with Section 400) is added to Chapter 4 of Part 1 of Division 1 of the Insurance Code, to read:

Article 1.5. Insured Automobile Inspection

400. (a) Except as otherwise provided in this article, commencing January 1, 1992, no policy or endorsement insuring a private passenger automobile as defined in subdivision (a) of Section 660 shall be issued in this state to provide collision or comprehensive coverage unless the insurer or its designated authorized representative has inspected the automobile.

(b) Except as otherwise provided in this article, automobile collision or comprehensive coverage shall not be effective on an additional or replacement private passenger automobile until the insurer or its agent has inspected the automobile.

(c) The inspection required by subdivision (a) shall be recorded on an inspection report adopted by the commissioner. Two color photographs, taken as directed on the inspection report at angles which show the front, back, and sides of the vehicle, shall be attached thereto. In addition, a color photograph shall be attached showing a closeup of the Environmental Protection Agency (EPA) sticker, located on the driver's side door jamb. The photograph shall be of sufficient clarity that the information contained on the EPA sticker is legible. The inspector may take additional photographs showing any damaged areas, which shall also be attached to the report. A copy of the report, without photographs, shall be provided to the insured by the insurer.

401. An insurer may waive or dispense with the mandatory inspection required by this article under any of the following circumstances:

(1) The insured vehicle is a temporary substitute vehicle.

(2) The insured vehicle is leased for less than six months, provided the insurer receives the lease or rental agreement containing a description of the vehicle, including its condition.

(3) The vehicle is over 10 years old.

(4) The vehicle is a new and unused automobile purchased from a dealer, as defined in Section 285 of the Vehicle Code, and the insurer is provided with either a copy of the bill of sale that contains

a full description of the automobile, including all options and accessories, or a copy of the window sticker or dealer invoice showing the itemized options and equipment in addition to the total retail price of the vehicle on which will be added any dealer-installed options purchased by the customer at the time of sale. The collision or comprehensive coverage on the vehicle shall not be suspended during the term of the policy due to the insured's failure to provide the required document or documents, but payment of a claim shall be conditioned upon receipt by the insurer of the documents, and no collision or comprehensive loss occurring after the effective date of coverage shall be payable until the documents are provided to the insurer.

(5) The vehicle is an additional or a replacement vehicle, and the named insured has been continuously insured for three or more policy years for automobile insurance with the same insurer or an affiliate of that insurer.

(6) Where the insured's coverage is being transferred to a new insurer or to a new agent or broker within the existing insurer or insurer group and the agent or broker provides the new insurer or agent or broker with a copy of the inspection report completed on behalf of the previous insurer, provided the insured vehicle was inspected by the previous insurer within the last 12 months. If the new insurer does not receive a copy of the inspection report within 60 days of the effective date of coverage, the new insurer shall cause an inspection to be performed within 30 days of notice to the insured.

(7) The insured vehicle is insured under a commercially rated policy that insures five or more vehicles.

(8) The vehicle is a nonowned vehicle insured under a policy providing automobile collision or comprehensive insurance and the vehicle has otherwise been inspected in accordance with this article.

(9) A buyer, borrower, or lessee of the vehicle is obligated under the terms of a conditional sale contract, loan agreement, note, or lease to maintain insurance on the vehicle and fails to procure or maintain the required coverage and the creditor or leasor advances amounts to procure the insurance in accordance with the conditional sale contract, loan agreement, note, or lease.

402. (a) Upon the insured's request for coverage for private passenger automobile collision or comprehensive insurance on an additional or replacement vehicle, the insurer may provide coverage immediately, and the inspection required by this article may not be required for five business days following the effective date of coverage.

(b) An insurer may defer the inspection required by this article under the following circumstances.

(1) On new business, for up to five business days following the effective date of coverage.

(2) On replacement vehicles, an insurer may provide the same type or level of collision or comprehensive coverage that covered the replaced vehicle without a request for coverage by the insured. That

automatic coverage prior to the insured's request for coverage may be for a period of up to five business days after the day on which the automobile is acquired.

(c) The five-day period set forth in subdivisions (a) and (b) may be extended to a period not to exceed 30 days by agreement of the insurer and insured.

(d) If an inspection is not conducted prior to the expiration of the five-day period set forth in this section, or other period agreed to by the insurer and insured, not to exceed 30 days, collision or comprehensive coverage on the vehicle shall be suspended on the day following the fifth business day or other agreed upon day, and that suspension shall continue until the inspection is conducted. The insurer, however, shall inspect the vehicle and reinstate coverage for automobile physical damage if the insured thereafter requests an inspection.

(e) Whenever automobile collision or comprehensive coverage is suspended for the failure to have an inspection report, the insurer and any lienholder shall immediately notify the insured that the collision or comprehensive coverage is suspended until the vehicle is inspected.

(f) The commissioner shall adopt by regulation a notice of mandatory preinsurance inspection requirement letter, which shall be provided the applicant by the insurer or its agent. If the insurer or its agent fails to give notice to the insured of the mandatory requirement of physical inspection or otherwise fails to comply with this article, the collision or comprehensive coverage shall not be suspended.

403. (a) Inspections required or permitted by this article shall be made by a designated authorized representative or inspection service of the insurer at times and places reasonably convenient to the insured.

(b) An insurer shall utilize authorized representatives or inspection services who shall do all of the following:

(1) Be responsible for the accuracy, completeness, and signature of the inspector for each inspection report in writing.

(2) Utilize sequentially numbered inspection reports, by location, and maintain a control system on those reports.

(3) For one year after the date of the inspection, retain and supply to the insurer, upon request, a copy of any inspection report.

(c) The insurer shall bear the cost of the inspection, however, where the inspection is performed by an agent or broker, the insurer shall not be required to reimburse the agent or broker for the labor costs of those inspections.

(d) The inspection report shall be used by the insurer to document previous damage, prior condition, optional equipment and accessories, and mileage of the vehicle. Optional equipment and accessories listed shall include, but are not limited to, alarm systems, radar detectors, custom tires and wheels, and sound and communication systems, such as radios, stereos, tape decks, compact

disks, and CB radios.

(e) The inspection report information and photographs as necessary shall be used by the insurer in the settlement of all collision and comprehensive claims and shall be used and made part of the claim file in the settlement of all unrecovered theft claims or total loss claims. The inspection report shall be part of the claim file regardless of whether or not the loss payment is reduced based on the information contained in the report.

(f) The commissioner shall adopt regulations as may be necessary, including the promulgation of necessary forms to implement this section.

404. After the mandatory inspection is conducted under this article, the insurer may require that the insured vehicle be periodically reinspected, but not more than once in each calendar year, as a condition for subsequent renewal of automobile collision or comprehensive coverage.

405. As used in this article, "temporary substitute vehicle" means any private passenger vehicle, not owned by the insured, while temporarily used with the permission of the owner as a substitute for the owned vehicle, while the latter is withdrawn from normal use because of a breakdown, repair, servicing, loss, or destruction.

CHAPTER 737

An act to add Section 18356 to the Welfare and Institutions Code, relating to children.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. (a) The Legislature finds and declares that if a child's individualized education program calls for residential placement, the placement should be made as close to the family as possible in order to facilitate continued family involvement, reunification, and the monitoring of the child's education, care, and programming.

(b) The Legislature further finds and declares that a number of seriously emotionally disturbed children are being placed in out-of-state residential treatment facilities by county departments of mental health and local education entities.

(c) It is the intent of the Legislature in enacting this act that a thorough and complete examination of the reasons for out-of-state placement of seriously emotionally disturbed children placed pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, take place.

SEC. 2. Section 18356 is added to the Welfare and Institutions

Code, to read:

18356. (a) When a local mental health department places a client out-of-state pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, it shall prepare a report for the Director of Mental Health. The report shall be sent to the State Department of Mental Health within 15 days after the actual placement.

(b) The report shall summarize the local mental health department's efforts to locate, develop, or adapt an appropriate program for the client within the state. The report shall also identify the circumstances which led to out-of-state placement, including the child's experience with California placements, distance from the child's family, child treatment needs which cannot be met in a California placement, and any other factors leading to the placement.

(c) The report shall identify any special circumstances, such as legal interventions, including mediation hearings, fair hearings, compliance complaints, or any other legal procedure resulting in an order which mandates the child's placement out of state.

(d) The report shall identify provisions for case management, case supervision, and family visitation in the case of out-of-state placements.

SEC. 3. (a) The Director of Mental Health, in consultation with the Superintendent of Public Instruction and other appropriate agencies providing services to emotionally disturbed children, shall prepare a report for the Legislature by June 1, 1992, which identifies the number of children placed out of state pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code during the calendar year 1991, the reasons for placement, and the problems in California's system of residential care which those placements identify.

(b) The report shall consider and make recommendations to the Legislature on all of the following issues:

(1) Gaps in California's residential system, either in numbers or service types.

(2) Barriers to developing resources to fill those gaps, including licensing restrictions, statutory prohibitions, and resource gaps.

(3) The policy implications for children, their families, and residential placement funding streams, arising from the elimination of any of the barriers identified.

(4) Whether the out-of-state facilities would meet the standards set forth by the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code).

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 738

An act to amend Section 5907 of the Public Resources Code, relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 5907 of the Public Resources Code is amended to read:

5907. All money deposited in the fund shall be available for expenditure, in accordance with Section 5921, for the purposes set forth below, in amounts not to exceed the following:

(a) One hundred sixty-six million dollars ($166,000,000) to the Department of Parks and Recreation for grants to counties, cities, cities and counties, districts, and nonprofit organizations for acquisition, development, rehabilitation, or restoration of real property for parks, beaches, wildlife habitat, natural lands, recreation, or preservation of historical resources, including an amount not to exceed two million four hundred ninety thousand dollars ($2,490,000) for state administrative costs, in accordance with the following schedule:

(1) One hundred twenty million dollars ($120,000,000) for grants to counties, cities, and districts on a per capita basis for the acquisition, development, rehabilitation, or restoration of real property for parks, beaches, wildlife habitat, natural lands, and recreation, except that each county is entitled to not less than one hundred thousand dollars ($100,000).

(2) Twenty million dollars ($20,000,000) for expenditure by the Department of Parks and Recreation for the purpose of the Roberti-Z'berg-Harris Urban Open Space and Recreation Program Act (Chapter 3.2 (commencing with Section 5620) of Division 5 of the Public Resources Code).

(3) Ten million dollars ($10,000,000) for competitive grants for park, beach, and recreational purposes to public agencies which provide significant park and recreational opportunities to the general public and are not eligible for grants pursuant to paragraph

(1).

(4) Eleven million dollars ($11,000,000) for competitive grants to public agencies and nonprofit organizations for acquisition, development, rehabilitation, or restoration of historical or archeological resources and for historical and archeological resources preservation projects and costs of planning and interpretation. Not less than one million dollars ($1,000,000) shall be used for archeological resources preservation purposes.

(5) Five million dollars ($5,000,000) for competitive grants to public agencies and nonprofit organizations for acquisition and development of land and rights-of-way for bicycle, horse, hiking, and handicapped access trails.

(b) Three hundred thirty-eight million seven hundred thousand dollars ($338,700,000) to the Department of Parks and Recreation for acquisition of park lands, wildlife habitat, coastal, and natural lands in California, and for grants to local agencies and nonprofit organizations, including an amount not to exceed five million eighty thousand five hundred dollars ($5,080,500) for state administrative costs, in accordance with the following schedule:

(1) Ninety-eight million six hundred thousand dollars ($98,600,000) to the Department of Parks and Recreation for acquisition of real property in accordance with the following schedule:

(A) Twelve million dollars ($12,000,000) for acquisition of land for the California Redwood State Parks, including, but not limited to, Big Basin Redwoods, Butano, Calaveras Big Trees, Forest of Nisene Marks, Hendy Woods, Humboldt Lagoons, Humboldt Redwoods, Jedediah Smith Redwoods, Portola, Prairie Creek Redwoods, Richardson Grove, and Sinkyone Wilderness State Parks; Benbow Lake State Recreation Area, Fort Ross State Historical Park, and Paul M. Dimmick State Wayside Campground; provided that each dollar up to at least ten million dollars ($10,000,000) from the funds to be spent pursuant to this subparagraph shall be matched with an equal amount in money or property from private gifts, city or county appropriations, or alternative sources other than the State of California.

(B) Five million dollars ($5,000,000) for acquisition of land within and adjacent to Anza-Borrego Desert State Park.

(C) Nineteen million dollars ($19,000,000) for acquisition of land in the Palm Canyon and Andreas Canyon region near Palm Springs for a park for the preservation of Indian heritage and of native palms.

(D) Seven million dollars ($7,000,000) for acquisition of lands in accordance with the general plan for the Chino Hills State Park, including the lands north of Highway 142.

(E) Ten million dollars ($10,000,000) for acquisition of land for additions to the Santa Susana Mountain Project to preserve historic and scenic sites, for hiking and equestrian trails, or for wildlife habitat and migration routes; provided that all acquisitions shall be located within the Rim of the Valley Corridor as defined in Section 33105.5

within the Simi Hills or Santa Susana Mountains in Los Angeles and Ventura Counties.

(F) Two million dollars ($2,000,000) for acquisitions within and adjacent to Big Basin Redwoods State Park and Castle Rock State Park in the Santa Cruz Mountains.

(G) Three million dollars ($3,000,000) for acquisition of lands in Santa Clara County within and adjacent to Henry Coe State Park and for lands in Stanislaus County within the park.

(H) One million dollars ($1,000,000) for acquisition of natural lands for expansion of Pescadero Marsh Natural Preserve at Pescadero State Beach.

(I) Twenty-five million dollars ($25,000,000) for acquisition of land for an East Bay Shoreline State Park in the Counties of Alameda or Contra Costa, or both, generally in accordance with the East Bay Shoreline feasibility study.

(J) Four million dollars ($4,000,000) for acquisition of natural lands within and adjacent to Mt. Diablo State Park.

(K) Four million dollars ($4,000,000) for implementation of the Frank's Tract State Recreation Area General Plan with first priority given to the western portion, providing secondary wave protection benefits to adjacent islands.

(L) One million six hundred thousand dollars ($1,600,000) for acquisition of wetlands in and adjacent to the Delta Meadows Project.

(M) Two million dollars ($2,000,000) for acquisition of natural lands within and adjacent to Robert Louis Stevenson State Park.

(N) One million dollars ($1,000,000) for expansion of Anderson Marsh State Historic Park.

(O) Two million dollars ($2,000,000) for expansion of the South Yuba Project along the South Fork of the Yuba River to protect scenic vistas and riparian habitat and to provide for recreational trails.

(2) Fifty-four million seven hundred thousand dollars ($54,700,000) for acquisition, development, rehabilitation, or restoration of real property in the state park system in accordance with the following schedule:

(A) Four million seven hundred thousand dollars ($4,700,000) for acquisitions of real property inside the boundaries of existing projects or units or as additions to existing projects or units.

(B) Fourteen million dollars ($14,000,000) for development, rehabilitation, or restoration of coastal resources, other than coastal resources in or on San Francisco Bay, in accordance with the following schedule:

(i) Eight million dollars ($8,000,000) within San Diego County through Santa Barbara County.

(ii) Four million dollars ($4,000,000) within San Luis Obispo County through the City and County of San Francisco.

(iii) Two million dollars ($2,000,000) within Marin County through Del Norte County.

(C) Three million dollars ($3,000,000) for development, rehabilitation, or restoration of resources in or on San Francisco Bay.

(D) Eight million dollars ($8,000,000) for development, rehabilitation, or restoration of inland resources.

(E) Two million dollars ($2,000,000) for development, rehabilitation, or restoration at lakes, reservoirs, and waterways, including the State Water Facilities, as defined in paragraphs (1) to (4), inclusive, of subdivision (d) of Section 12934 of the Water Code.

(F) One million dollars ($1,000,000) for the repair of storm damage and construction to prevent future storm damage.

(G) Three million dollars ($3,000,000) for planning, development, rehabilitation, restoration, or interpretive facilities in support of volunteer community action projects for the state park system.

(H) Ten million dollars ($10,000,000) for the increased stewardship of the public investment in the protection of the most critical natural and scenic features of the existing state park system.

(I) Five million dollars ($5,000,000) for rehabilitation and restoration of historical resources of the state park system.

(J) Three million dollars ($3,000,000) for development and rehabilitation of trails within the state park system or connecting units of the state park system.

(K) One million dollars ($1,000,000) for acquisition and development of trailheads for the Sno-Park program pursuant to Chapter 1.27 (commencing with Section 5091.01) of Division 5, including access to the Tahoe Rim Trail.

(3) One hundred eighty-five million four hundred thousand dollars ($185,400,000) to the Department of Parks and Recreation for grants to local agencies in accordance with the following schedule:

(A) Thirty million dollars ($30,000,000) for a grant to San Diego County in accordance with the following schedule:

(i) Ten million dollars ($10,000,000) for acquisition of natural lands in the San Dieguito River Valley.

(ii) Ten million dollars ($10,000,000) for acquisition of natural lands in the Tijuana River Valley.

(iii) Ten million dollars ($10,000,000) for acquisition of San Diego County resource conservation areas and urban canyons in accordance with the resource element of the County General Plan.

(B) Ten million dollars ($10,000,000) for a grant to the City of Laguna Beach for acquisition of, and for grants by the city to nonprofit organizations for acquisition of, natural lands within and contiguous to the Laguna Greenbelt as described in the Orange County General Plan.

(C) Four million dollars ($4,000,000) for a grant to the City of Irvine for acquisition of natural lands in the open space spine designated in the City of Irvine General Plan.

(D) Eleven million dollars ($11,000,000) for a grant to the City of Riverside in accordance with the following schedule:

(i) One million dollars ($1,000,000) for acquisition of natural lands in Sycamore Canyon Wilderness Park in accordance with the City of

Riverside Specific Plan.

(ii) Ten million dollars ($10,000,000) for acquisition of land in and near the California Citrus State Historic Park located in the Arlington Heights area of Riverside.

(E) Two million four hundred thousand dollars ($2,400,000) for a grant to the County of Riverside in accordance with the following schedule:

(i) Four hundred thousand dollars ($400,000) for acquisition of land to expand Hurkey Creek Park.

(ii) One million dollars ($1,000,000) for acquisition of land for trails in the Santa Ana River Corridor.

(iii) One million dollars ($1,000,000) for acquisition of land for trails suitable for equestrian and hiking uses in Riverside County, including the Temescal Canyon Trail.

(F) Twenty million dollars ($20,000,000) for a grant to the County of San Bernardino for acquisition of land primarily through the use of conservation easements within the Chino Agricultural Preserve.

(G) Twenty-five million dollars ($25,000,000) for a grant to Los Angeles County in accordance with the following schedule:

(i) Ten million dollars ($10,000,000) for acquisition or development of noncommercial visitor use and access facilities, and/or renovation of existing facilities at county, state, or city beaches operated by Los Angeles County.

(ii) Ten million dollars ($10,000,000) for acquisition of land for the Baldwin Hills State Recreation Area in accordance with the general plan for Baldwin Hills State Recreation Area.

(iii) Five million dollars ($5,000,000) for acquisition of natural lands to establish the Brea Heights Regional County Park.

(H) Seven million dollars ($7,000,000) for a grant to the County of Santa Barbara for acquisition of natural lands, wildlife habitat, wetlands, and agricultural land preservation, in incorporated and unincorporated areas, in accordance with the following schedule, except that expenditures for nonagricultural lands shall be limited to acquisition of lands in the Coastal Zone and shall be of sufficient size to be a major natural or low intensity community recreational resource:

(i) Four million eight hundred thousand dollars ($4,800,000) for nonagricultural lands located south of the ridge line of the Santa Ynez Mountain Range.

(ii) One million two hundred thousand dollars ($1,200,000) for nonagricultural lands north of the ridge line of the Santa Ynez Mountain Range.

(iii) One million dollars ($1,000,000) for the preservation of agricultural land in Santa Barbara County as identified for agricultural use in the Santa Barbara County Comprehensive Plan. These funds shall be used primarily for the acquisition of conservation easements.

(I) Four million dollars ($4,000,000) for a grant to the County of Monterey for acquisition of conservation easements in Monterey

County on agricultural lands in the Salinas and Pajaro Valleys.

(J) Two million dollars ($2,000,000) for a grant to the Monterey Peninsula Regional Park District to expand the Garland Ranch Regional Park and for acquisition of natural lands and wildlife and riparian habitat in the Bixby Creek watershed.

(K) One million dollars ($1,000,000) for a grant to the County of Santa Cruz for acquisition of conservation easements in Santa Cruz County on commercially viable agricultural lands in the Pajaro Valley and the coastal terrace north of the City of Santa Cruz, consistent with Section 2.3.1 of the Santa Cruz County General Plan.

(L) Fifteen million dollars ($15,000,000) for acquisition of those greenbelt lands known as the Pogonip property located in the City of Santa Cruz and the County of Santa Cruz, as defined in the 1979 City of Santa Cruz Greenbelt Ordinance. This acquisition shall be accomplished through grants to the following entities listed in order of priority: (1) the City of Santa Cruz and (2) a park and open space district or a park and recreation district formed by the local electorate.

(M) Ten million dollars ($10,000,000) for a grant to the Midpeninsula Regional Open Space District for acquisition in accordance with the following schedule:

(i) One million dollars ($1,000,000) for acquisition of land between property managed by the district and Castle Rock State Park and Portola State Park.

(ii) Nine million dollars ($9,000,000) for expansion of Rancho San Antonio, Sierra Azul, El Sereno, El Corte de Madera Creek, and Windy Hill Open Space Preserves and for acquisition of Teague Hill Open Space Preserve.

(N) Thirteen million dollars ($13,000,000) for a grant to the East Bay Regional Park District in accordance with the following schedule:

(i) Ten million dollars ($10,000,000) for expenditure in accordance with the East Bay Regional Park District Master Plan, for expansion of Morgan Territory Regional Park and Briones Regional Park, acquisitions of natural lands along the Carquinez Straits and on Pleasanton Ridge, and shoreline access and trail acquisitions adjacent to the San Francisco Bay.

(ii) One million five hundred thousand dollars ($1,500,000) for acquisition of lands in the southern portion of Walpert Ridge in Hayward in central Alameda County.

(iii) One million five hundred thousand dollars ($1,500,000) for expansion of the Carquinez Shoreline Park in Port Costa.

(O) Five million dollars ($5,000,000) for a grant to the Marin County Open Space District for acquisition of natural lands on Loma Alta Mountain, Big Rock Ridge, and other wetlands, wildlife habitat, and natural lands in accordance with the Environmental Quality and Open Space Elements of the Marin Countywide Plan.

(P) Fifteen million dollars ($15,000,000) for a grant to the County of Marin for preservation of, and for grants by the county to nonprofit

organizations for preservation of agricultural lands in the Marin County coastal zone and inland rural corridor, in accordance with the Marin County Agricultural Land Preservation Program. Funds provided in this subparagraph shall be used primarily to acquire agricultural conservation easements.

(Q) One million six hundred thousand dollars ($1,600,000) for a grant to the City of Mill Valley for acquisition of natural lands on the Northridge and spurs of Mount Tamalpais, in accordance with the Open Space Elements in the Marin Countywide Plan or the Mill Valley General Plan, or both.

(R) One million dollars ($1,000,000) for a grant to the City of Vacaville for acquisition of natural lands along the ridgelands of the Vaca Mountains, Blue Ridge Mountains, and English Hills, including Old Rocky, for a ridgeline park in accordance with the Vacaville City General Plan.

(S) Two million dollars ($2,000,000) for a grant to the City of Davis for acquisition of, or for grants from the city to nonprofit organizations for acquisition of, wildlife and riparian habitat, wetlands, and potential wetlands within the 1987 Davis General Plan Study Area.

(T) Six million dollars ($6,000,000) for a grant to the County of Sacramento, to be shared by the county with the City of Sacramento on a per capita basis, for acquisition of parklands, wetlands, wildlife habitat, and related greenbelt areas in the county along Morrison Creek, Dry Creek, Snodgrass Slough, Cosumnes River, Laguna Creek, Sacramento River, and American River, consistent with the County Park System Master Plan.

(U) Four hundred thousand dollars ($400,000) for a grant to Lake County for acquisition of a county park that provides wildlife habitat, riparian areas, and recreational benefits near Middletown.

(c) Eighty-one million three hundred thousand dollars ($81,300,000) to the Wildlife Conservation Board for programs involving the acquisition of land pursuant to the Wildlife Conservation Law of 1947, subject to Section 2625 of the Fish and Game Code and consistent with the purposes of this division, and for grants to local agencies, including an amount not to exceed one million two hundred nineteen thousand five hundred dollars ($1,219,500) for state administrative costs, in accordance with the following schedule:

(1) Thirty-eight million dollars ($38,000,000) for projects involving the acquisition, preservation, protection, restoration, enhancement, or development of wetlands for wildfowl and other wildlife habitat, in accordance with the following schedule:

(A) Thirteen million dollars ($13,000,000) for acquisition or restoration of wetlands within or adjacent to (1) the areas subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission or (2) the boundaries of historic San Francisco Bay wetlands as designated in the 1985 United States Fish and Wildlife Service National Wetland Inventory Maps for the San

Francisco Bay Area or in subsequent updates with not less than eight million dollars ($8,000,000) for acquisition or restoration of wetlands south of the San Mateo Bridge.

(B) Twenty-five million dollars ($25,000,000) for wetlands outside the coastal zone as defined in Section 30103 and other than within the area defined in subparagraph (A).

(2) Two million dollars ($2,000,000) for acquisition of Monarch Butterfly habitat.

(3) Ten million dollars ($10,000,000) for acquisition of riparian habitat that drains into the Pacific Ocean within the Counties of San Diego, Orange, Los Angeles, and Ventura.

(4) Four million dollars ($4,000,000) for acquisition of land containing Tecate Cypress forest and associated rare species in Coal Canyon in Orange County.

(5) Five million dollars ($5,000,000) for acquisition of wildlife habitat and natural lands along the San Joaquin River between Friant Dam and Highway 99 in the Counties of Fresno and Madera.

(6) Three hundred thousand dollars ($300,000) for acquisition of valley oak riparian forest and wetlands along the Mokelumne River near Galt in San Joaquin County.

(7) Two million dollars ($2,000,000) for acquisition of wetlands, riparian habitat, vernal pools, and immediately adjacent natural uplands in the vicinity of the Stanislaus, Tuolumne, Merced, and San Joaquin Rivers and their tributaries in Stanislaus, San Joaquin, and Merced Counties.

(8) Four million dollars ($4,000,000) for acquisition of riparian habitat along the Sacramento River from Shasta Dam to Collinsville.

(9) One million dollars ($1,000,000) for acquisition of riparian habitat along the Feather River from Oroville to the mouth of the river.

(10) Four million dollars ($4,000,000) for acquisition of inland, San Pablo Bay, and coastal wetlands in Sonoma County, including the Laguna de Santa Rosa.

(11) Two million dollars ($2,000,000) for acquisition within the Napa Marsh and associated wetlands.

(12) One million dollars ($1,000,000) for acquisition of wildlife habitat in northern Napa County as identified by the Department of Fish and Game.

(13) Four million dollars ($4,000,000) for acquisition of sensitive riparian areas, meadows, critical wildlife habitat, and recreation lands in the Hope Valley area just south of Lake Tahoe in Alpine County. Portions of these lands which could provide compatible recreational opportunities may be managed by the Department of Parks and Recreation under an interagency agreement with the Department of Fish and Game.

(14) Four million dollars ($4,000,000) for acquisition of old growth redwoods, mixed forest, and wildlife habitat near the town of Whitethorn in the Mattole River watershed in Humboldt and Mendocino Counties.

(d) Fifty-eight million dollars ($58,000,000) to the State Coastal Conservancy pursuant to Division 21 (commencing with Section 31000), consistent with the purposes of this division, for acquisition, enhancement, or restoration of natural lands and development of public accessways in coastal areas and the San Francisco Bay region; and for preservation of agriculture in coastal areas, and for grants to local agencies and nonprofit organizations, and for related state administrative costs, in accordance with the following schedule:

(1) Thirty-four million dollars ($34,000,000) to the State Coastal Conservancy for acquisition, enhancement, or restoration of natural lands, and development of public accessways in coastal areas and the San Francisco Bay region; and for preservation of agriculture in coastal areas, pursuant to Division 21 (commencing with Section 31000). These funds include the five million eight hundred fifty thousand dollars ($5,850,000) advanced by the Coastal Conservancy to the Santa Monica Mountains Conservancy for the Circle X acquisition in the Santa Monica Mountains. Up to one million five hundred thousand dollars ($1,500,000) of the total funds available pursuant to this paragraph shall be spent on expansion of the Bolsa Chica Linear Park in Orange County or for disbursement to the City of Huntington Beach or other appropriate agencies for this purpose, or for restoration, enhancement, or expansion of the Bolsa Chica wetlands that is not otherwise required for mitigation, or both. Up to four million dollars ($4,000,000) of the total funds available pursuant to this paragraph shall be spent for the purposes of paragraph (2) if the funds allocated in paragraph (2) prove to be insufficient to achieve the purposes of that paragraph.

(2) Ten million dollars ($10,000,000) for acquisition of natural lands to preserve coastal resources in the coastal dunes and wetlands from Mussel Point to Grover City west of Highway 1 in San Luis Obispo and Santa Barbara Counties. Up to seven hundred fifty thousand dollars ($750,000) may be spent for dunes restoration and public access consistent with coastal resources preservation.

(3) One million five hundred thousand dollars ($1,500,000) for acquisition of coastal natural lands and wetlands in Monterey County between Monterey Wharf #2 and the Salinas River.

(4) Eight million dollars ($8,000,000) for acquisition of, and for grants to public agencies or nonprofit organizations for acquisition of, coastal lands within San Mateo County that meet three or more of the following criteria, with preference given to lands meeting the largest number of criteria: (1) ocean frontage, (2) state or county scenic corridor, (3) designated in the County General Plan as agriculture, (4) sensitive habitat areas or wetlands, (5) close proximity to urban areas, or (6) adjacent to other permanently dedicated public or private natural lands. These funds shall not be used for urban waterfronts or for lot consolidation projects as defined in Chapters 5 (commencing with Section 31200) and 7 (commencing with Section 31300) of Division 21.

(5) Four million dollars ($4,000,000) for acquisitions in Sonoma

County of coastal natural lands and coastal wetlands south of Stewart Point, and for acquisition of San Pablo Bay wetlands and natural lands.

(6) Five hundred thousand dollars ($500,000) for acquisition of, and for grants to nonprofit organizations for acquisition of, land containing old growth Douglas-fir on Mill Creek, a tributary of the Mattole River in Humboldt County, and for public access to the lands acquired.

(e) Eighty-two million dollars ($82,000,000) to the following agencies, and for grants to local agencies and nonprofit organizations, including state administrative costs, for the following purposes:

(1) Seventeen million dollars ($17,000,000) to the Department of Fish and Game, including an amount not to exceed two hundred fifty-five thousand dollars ($255,000) for state administrative costs, in accordance with the following schedule:

(A) Ten million dollars ($10,000,000) for restoration and enhancement of salmon streams in accordance with the recommendations of the Commercial Salmon Stamp Advisory Committee and the Advisory Committee on Salmon and Steelhead Trout.

(B) Six million dollars ($6,000,000) for restoration and enhancement of wild trout and native steelhead habitat; for capital outlay to design, develop, and construct an experimental wild trout and native steelhead propagation facility; for acquisition of land important for the perpetuation of wild trout and native steelhead; and to provide public access to wild trout and native steelhead waters.

(C) One million dollars ($1,000,000) for marine patrol boats and other equipment for enforcement of fish and game regulations to protect fish, marine birds, and marine mammals from Point Conception to Fort Bragg.

(2) Five million dollars ($5,000,000) to the Department of Forestry for urban forestry programs, and for related state administrative costs not to exceed two hundred fifty thousand dollars ($250,000), in accordance with Section 4799.12.

(3) Five million dollars ($5,000,000) to the Department of Water Resources for grants to counties, cities, cities and counties, districts, and nonprofit organizations for the acquisition or restoration of natural lands which contain urban streams, creeks, and riparian areas, and for related state administrative costs not to exceed two hundred fifty thousand dollars ($250,000), in accordance with Section 7048 of the Water Code.

(4) Thirty million dollars ($30,000,000) to the Santa Monica Mountains Conservancy for land acquisition and for grants to nonprofit organizations for land acquisition in the Santa Monica Mountains, and for related state administrative costs, pursuant to Division 23 (commencing with Section 33000) and consistent with the purposes of this division. Five million dollars ($5,000,000) of this

amount shall be for grants to nonprofit organizations pursuant to Section 33204.2.

(5) Twenty-five million dollars ($25,000,000) to the County of Monterey to be transferred directly to the 1988 Bond Act Account of the Big Sur Preservation Fund of Monterey County to support implementation of "critical viewshed" policies of the county's Big Sur Coast Land Use Plan which was certified by the California Coastal Commission on April 9, 1986, as a component of the Big Sur Local Coastal Program.

The intent of this paragraph is to ensure that the exceptional vistas seen from Scenic Highway One along the Big Sur Coast in Monterey County will be preserved in a manner that ensures the continuation of existing state and local jurisdiction over the Big Sur area.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide protection for wildlife habitat in northern Napa County at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 739

An act to amend Section 12514 of, and to add Part 2.9 (commencing with Section 10900) to Division 6 of, the Water Code, relating to water.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Part 2.9 (commencing with Section 10900) is added to Division 6 of the Water Code, to read:

PART 2.9. EFFICIENT WATER MANAGEMENT PRACTICES FOR AGRICULTURAL WATER SUPPLIERS

10900. This part shall be known and may be cited as the Agricultural Water Suppliers Efficient Water Management Practices Act.

10901. The Legislature finds and declares as follows:

(a) Agriculture is a vital industry in California.

(b) The waters of the state are a limited and renewable resource.

(c) Agriculture has already implemented many improvements to water use efficiency.

(d) Implementation of additional water management practices could further improve agricultural water use efficiency in many

areas.

(e) In many areas agricultural water suppliers are already carrying out water management practices to improve the efficiency of water use.

(f) Agricultural water suppliers can implement efficient water management practices for the delivery of water and can assist their users to improve the efficiency of their use of water.

10902. Unless the context otherwise requires, the definitions in this section govern construction of this part.

(a) "Agricultural water supplier" or "supplier" means a supplier, either publicly or privately owned, supplying water, regardless of the basis of right, for agricultural purposes.

(b) "Efficient water management practices" means reasonable and economically justifiable programs to improve the delivery and use of water used for agricultural purposes.

(c) "Water conservation" means the reduction of the amount of water irretrievably lost to saline sinks, moisture-deficient soils, water surface evaporation, or noncrop evapotranspiration in the process of satisfying an existing beneficial use achieved either by improving the technology or method for diverting, transporting, applying, or recovering the water or by implementation of other conservation methods.

10903. (a) The department shall establish an advisory committee comprised of representatives of the California farming community, agricultural water suppliers, the department, the Department of Food and Agriculture, the University of California, the California State University, public interest groups, and other interested parties.

(b) The department shall periodically review potential efficient water management practices to determine which are feasible to achieve water conservation, as defined in subdivision (c) of Section 10902.

(c) The department may carry out cooperative studies of the effectiveness and efficiency of potential water management practices and implemented efficient water management practices to provide the basis for future recommendations.

(d) Nothing in this part shall be construed to affect water rights.

(e) The department shall consult with the advisory committee in carrying out its periodic reviews and conducting studies of water management practices as provided in subdivisions (b) and (c).

10904. (a) The department shall offer assistance to agricultural water suppliers to implement efficient water management practices to improve the efficiency of water use.

(b) Assistance offered by the department shall include, but not be limited to, technical consultation and training in methods to deliver water to farmers based on their actual water needs, evaluating and recommending improvements to the uniformity with which water is applied, advising farmers on the optimum quantities of water to apply and when to apply it, and any other technologies or

management methods to improve the efficiency of water use.

SEC. 2. Section 12514 of the Water Code is amended to read:

12514. The board shall maintain an office in the County of Los Angeles and shall hold meetings there or elsewhere upon call of the chairman or of three members of the board.

CHAPTER 740

An act to amend Section 18515.2 of the Revenue and Taxation Code, relating to veterans' memorials, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 18515.2 of the Revenue and Taxation Code, as amended by Chapter 102 of the Statutes of 1990, is amended to read:

18515.2. Notwithstanding Section 13340 of the Government Code, all money transferred to the Vietnam Veterans Memorial Account in the General Fund pursuant to Section 18515.1 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) (1) To the Vietnam Veterans Memorial Commission established pursuant to Section 1300 of the Military and Veterans Code for use in the construction, maintenance, and operation of a suitable memorial to Vietnam veterans at the State Capitol, including the amount of fifty thousand dollars ($50,000) for purposes of the recordation of additional names upon, and the repair of, the memorial. Any modifications or alterations of, or additions to, the Vietnam Veterans Memorial shall be performed in accordance with criteria established by the Vietnam Veterans Memorial Commission.

(2) For purposes of this subdivision, "operation" includes, but is not limited to, developing and publishing informational brochures for the memorial, producing an informational film about the memorial, and conducting tours of the memorial.

(c) If moneys in the account exceed the amount required to construct, improve, maintain, or repair a Vietnam Veterans Memorial, the balance shall be allocated by the Vietnam Veterans Memorial Commission to be used for the construction, improvement, or repair of other veterans' memorials as designated by that commission.

(d) Any moneys allocated to the Veterans Memorial Commission pursuant to subdivision (c) may be deposited by that commission in a trust account in a private financial institution.

(e) Those moneys identified in subdivision (b) for the purpose of funding the recordation of additional names upon, and the repair of, the Vietnam Veterans Memorial may be deposited in a separate special account to be disbursed as required by the Director of Veterans Affairs.

SEC. 2. Section 18515.2 of the Revenue and Taxation Code, as amended by Chapter 102 of the Statutes of 1990, is amended to read:

18515.2. Notwithstanding Section 13340 of the Government Code, all money transferred to the Vietnam Veterans Memorial Account in the General Fund pursuant to Section 18515.1 is hereby continuously appropriated, without regard to fiscal years, for allocation as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) (1) To the Vietnam Veterans Memorial Commission established pursuant to Section 1300 of the Military and Veterans Code for use in the construction, maintenance, and operation of a suitable memorial to Vietnam veterans at the State Capitol, including the amount of fifty thousand dollars ($50,000) for purposes of the recordation of additional names upon, and the repair of, the memorial. Any modifications or alterations of, or additions to, the Vietnam Veterans Memorial shall be performed in accordance with criteria established by the Vietnam Veterans Memorial Commission.

(2) For purposes of this subdivision, "operation" includes, but is not limited to, developing and publishing informational brochures for the memorial, producing an informational film about the memorial, and conducting tours of the memorial.

(c) If moneys in the account exceed the amount required to construct, improve, maintain, or repair a Vietnam Veterans Memorial, the balance shall be allocated by the Vietnam Veterans Memorial Commission to be used for the construction, improvement, or repair of other veterans' memorials as designated by that commission.

(d) Any moneys allocated to the Veterans Memorial Commission pursuant to subdivision (c) may be deposited by that commission in a trust account in a private financial institution.

(e) Those moneys identified in subdivision (b) for the purpose of funding the recordation of additional names upon, and the repair of, the Vietnam Veterans Memorial may be deposited in a separate special account to be disbursed as required by the Director of Veterans Affairs.

SEC. 3. Section 2 of this bill incorporates amendments to Section 18515.2 of the Revenue and Taxation Code proposed by both this bill and SB 1925. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1991, (2) each

bill amends Section 18515.2 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1925, in which case 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 institute an interpretive program for the Vietnam Veterans Memorial during 1990, it is necessary that this act take effect immediately.

CHAPTER 741

An act to add Section 13376 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 13376 is added to the Vehicle Code, to read:

13376. (a) The department shall revoke a schoolbus, school pupil activity bus, youth bus, or general public paratransit driver certificate, and shall deny an application for that certificate, for any of the following causes:

(1) The applicant or certificate holder has been convicted of any sex offense as defined in Section 44010 of the Education Code.

(2) The applicant has, within the three years preceding the application date, either been convicted of a violation of Section 20001, 23103, 23104, 23152, or 23153, or has his or her driving privilege suspended, revoked, or placed on probation by the department for a cause involving the safe operation of a motor vehicle.

(3) The applicant has, within the two years preceding the application date, been convicted of any offense specified in Section 11361.5 of the Health and Safety Code.

(4) The applicant has failed to meet the prescribed testing requirements for issuance of the certificate.

(b) (1) The department may temporarily suspend a schoolbus, school pupil activity bus, youth bus, or general public paratransit driver certificate, or temporarily withhold issuance of a certificate to an applicant, if the holder or applicant is arrested for or charged with any sex offense, as defined in Section 44010 of the Education Code.

(2) Upon receipt of a notice of temporary suspension, or of the department's intent to withhold issuance, of a certificate, the certificate holder or applicant may request a hearing within 10 days of the effective date of the department's action.

(3) The department shall, upon request of the holder of, or

applicant for, a certificate, within 10 working days of the receipt of the request, conduct a hearing on whether the public interest requires suspension or withholding of the certificate pursuant to paragraph (1).

(4) If the charge is dismissed or results in a finding of not guilty, the department shall immediately terminate the suspension or resume the application process, and shall expunge the suspension action taken pursuant to this subdivision from the record of the applicant or certificate holder.

(c) An applicant or holder of a certificate may reapply for a certificate whenever a felony or misdemeanor conviction is reversed or dismissed. A termination of probation and dismissal of charges pursuant to Section 1203.4 of the Penal Code or a dismissal of charges pursuant to Section 1203.4a of the Penal Code is not a dismissal for purposes of this section.

(d) The determination of the facts pursuant to this section is a civil matter which is independent of the determination of the person's guilt or innocence, has no collateral estoppel effect on a subsequent criminal prosecution, and does not preclude the litigation of the same or similar facts in a criminal proceeding.

CHAPTER 742

An act to amend Sections 19460, 19851, 19852, and 19853 of, and to amend the heading of Chapter 10 (commencing with Section 19850) of Part 2 of Division 10 of, the Welfare and Institutions Code, relating to disabled persons, and making an appropriation therefor.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

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

19460. There is in the State Treasury a permanent revolving fund to be known as the Rehabilitation Revolving Loan Guarantee Fund, and to be administered by the department. There is within the Rehabilitation Revolving Loan Guarantee Fund the Supported Employment and Adaptive Technology Revolving Loan Guarantee Account. The money deposited in the fund is hereby appropriated, without regard to fiscal years, for the purposes of this article and Chapter 10 (commencing with Section 19850). The fund shall be used to guarantee loans made by eligible lenders to eligible persons for the purchase of vans, automobiles, and other special equipment to facilitate transportation of the physically handicapped, and to assist private employers and employees, and other persons regardless of age, with disabilities to purchase durable equipment, adaptive

aids, and assistive devices in order to live more independently or to engage in employment, including, but not limited to, supported employment as defined and determined by the department.

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

CHAPTER 10. SUPPORTED EMPLOYMENT AND ADAPTIVE TECHNOLOGY LOANS

SEC. 3. Section 19851 of the Welfare and Institutions Code is amended to read:

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

SEC. 4. Section 19852 of the Welfare and Institutions Code is amended to read:

19852. As used in this chapter:

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

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

SEC. 5. Section 19853 of the Welfare and Institutions Code is amended to read:

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

(a) Loan guarantees may be made to private employers and employees with disabilities to purchase durable equipment, adaptive aids, and assistive devices in order to engage in employment upon such terms and conditions as the department may, by regulation, determine. Loan guarantees may also be made to adults or children

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

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

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

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

CHAPTER 743

An act to add Section 2192 to the Fish and Game Code, relating to wild animals, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 2192 is added to the Fish and Game Code, to read:

2192. Notwithstanding Part 2.5 (commencing with Section 18900) of Division 13 of the Health and Safety Code, Section 11356 of the Government Code, or any other provision of law, regulations of the commission relating to the construction, fixtures, and other minimum caging standards adopted by the commission for the confinement of live wild animals pursuant to this chapter or live cats pursuant to Section 3005.9 are not building standards subject to the approval of the State Building Standards Commission.

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:

Because it takes 120 days for reviewing building standards, unless this bill takes effect immediately, the required standards for caging of wild animals will be delayed for that period.

CHAPTER 744

An act relating to the Ragle Ranch Regional Park.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Notwithstanding any other provision of law or any contract between the Department of Parks and Recreation and the County of Sonoma for a grant pursuant to the State Beach, Park, Recreational, and Historical Facilities Bond Act of 1974 (Chapter 1.67 (commencing with Section 5096.71) of Division 5 of the Public Resources Code), a senior services center may be constructed on land acquired for the Ragle Ranch Regional Park pursuant to a grant from the state.

CHAPTER 745

An act to add Article 11 (commencing with Section 8120) to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, relating to commercial fishing.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990]

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

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

(a) The salmon fishing industry is among the west coast's largest industries and generates hundreds of millions of dollars and thousands of jobs each year and the salmon fishery is vitally important to commercial and sportfishing interests, to persons who rely on salmon as a means of subsistence, and to the state's tourist industry.

(b) All of the west coast states are committed to maintaining and enhancing their wild stocks of salmon by careful management, by initiating maintenance and enhancement programs, and by investing resources in the fishing industry.

(c) Millions of salmon are being caught and injured by high seas fisheries that intercept salmon contrary to state, federal, or international law, which defeats the state's management and rebuilding programs, deprives the state of a return on its investment in the fishing industry, and detrimentally affects sportfishing uses of salmon and persons who rely on salmon for subsistence.

(d) Vessels that engage in the high seas interception of salmon can move relatively freely and undetected from region to region in the Pacific Ocean and thus are able to harvest whatever species is most readily available or most valuable; by traveling westward, a greater proportion of the take is Asian salmon and, by traveling eastward, a greater proportion of the take is west coast salmon. Although there is intermixing of Asian and North American salmon stocks, scientific evidence proves that even a minimal harvest of salmon within the migratory range of each species will contain west coast salmon.

(e) The illegal taking of salmon detrimentally affects the west coast fishing industry and the illegal taking of west coast salmon is of primary concern because of the direct and immediate effect on the west coast states. In addition, the illegal taking of Asian salmon is also of concern because the depletion of those stocks will ultimately result in a shift of high seas fishing efforts, both legal and illegal, to the west coast salmon.

(f) The high seas interception of salmon occurs beyond the exclusive economic zone of the United States, or through incursion within the exclusive economic zone and the state's territorial sea, by vessels that are usually not registered in the west coast states.

Moreover, these vessels are not based in the United States, and can avoid detection more easily than United States based vessels. As a practical matter, it is extremely difficult to directly or indirectly regulate the vessels themselves; it is therefore necessary to prohibit activities within the state that give aid, comfort, and financial incentives to the high seas interception of salmon.

(g) The purpose of this act is to prevent resources, facilities, and expertise within the state from being made available to promote or facilitate the high seas interception of salmon or to assist in making intercepted salmon ready for or accessible to world markets.

SEC. 2. Article 11 (commencing with Section 8120) is added to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 11. High Seas Interception of Salmon

8120. The definitions in this section govern the construction of this article:

(a) "Environmental purpose" means the intent to prevent or minimize adverse ecological effects to water quality.

(b) "High seas interception" means the unauthorized taking of salmon for commercial purposes outside the United States 200-mile fishery conservation zone. "Unauthorized" means contrary to a statute or regulation of the United States or this state or to a treaty or international fishery agreement, or in violation of a foreign law.

(c) "Humanitarian purpose" means the intent to provide medical services for a sick or injured person, or to prevent the loss of human life.

(d) "Process" means affecting the condition or location of salmon, including preparation, packaging, storage, refrigeration, or transportation.

(e) "Written instrument" means hand written or printed matter, including vessels' logs and papers, bills of lading and sale, documents relating to processing, shipping, and customs, and information stamped on or affixed to cans, crates, containers, freight, or other means of storage or packaging.

8121. It is unlawful for any person to do any of the following:

(a) To buy, sell, trade, process, or possess salmon, or attempt to buy, sell, trade, process, or possess salmon, with the knowledge that the salmon has been, or will be, obtained by high seas interception.

(b) To knowingly provide financing, premises, equipment, supplies, services, power, or fuel used to buy, sell, trade, process, or possess salmon that has been, or will be, obtained by high seas interception.

(c) Act as a broker or middleman, or otherwise act on behalf of another person, to arrange for or negotiate, or attempt to arrange for or negotiate, the purchase, sale, trade, processing, or possession of salmon, with the knowledge that the salmon has been, or will be, obtained by high seas interception.

8122. It is unlawful for any person to create, circulate, or possess

any written instrument related to salmon with the knowledge that the written instrument conveys misleading or untrue information about the ownership, possession, processing, origin, destination, route of shipping, type, or condition of salmon, or the time, place, and manner of the taking of the salmon.

8123. (a) If any person knows that a vessel contains salmon obtained by high seas interception or that the owner or operator of the vessel intends to engage in the high seas interception of salmon, it is unlawful for that person to do any of the following:

(1) Move persons, cargo, or other property to or from the vessel.

(2) Service or repair the vessel or its equipment.

(3) Provide the vessel with power, supplies, equipment, or fuel.

(4) Provide the vessel with information, other than weather reports, capable of aiding the high seas interception of salmon or frustrating or avoiding detection, including communicating the movements, intentions, or activities of state or federal law enforcement officials or other fishing vessels.

(5) Permit the vessel to dock or anchor, or to remain docked or anchored, if that person is responsible for the operation of the facility, harbor, or anchorage.

(b) This section does not prohibit any person from performing any act or acts set forth in subdivision (a), if that person reasonably believes that the act or acts were necessary for humanitarian or environmental purposes or to prevent a significant loss of property, if that person provides immediate notice, by the quickest available means, to the United States Coast Guard, the department, or any law enforcement agency as to the type of assistance provided and the circumstances involved.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 746

An act to amend Sections 2530.2, 2530.5, 2530.6, 2531, 2531.1, 2531.4, 2531.7, 2531.95, 2532, 2532.1, 2532.2, 2532.4, 2533, 2533.1, 2533.2, 2533.4, 2534, 2534.1, 2534.2, 2535.2, 2535.4, 2536, and 2539 of, the Business and Professions Code, relating to the Board of Speech Pathology and Audiology Licensure.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) "Committee" means the Speech-Language Pathology and Audiology Examining Committee.

(b) "Person" means any individual, organization or corporate body except that only individuals can be licensed under this chapter.

(c) A "speech-language pathologist" is a person who practices speech-language pathology.

(d) "The practice of speech-language pathology" means the application of principles, methods, and procedures for measurement, testing, identification, prediction, counseling, or instruction related to the development and disorders of speech, voice, or language for the purpose of identifying, preventing, managing, habilitating or rehabilitating, ameliorating, or modifying such disorders and conditions in individuals or groups of individuals, and the planning, directing, conducting and supervision of programs for identification, evaluation, habilitation, and rehabilitation of disorders of speech, voice, or language.

(e) "Speech-language pathology aide" means any person meeting the minimum requirements established by the committee, who works directly under the supervision of a speech-language pathologist.

(f) An "audiologist" is one who practices audiology.

(g) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures such as, but not limited to, specifying amplification requirements and

evaluation of the results thereof, auditory training, and speech reading.

(h) "Audiology aide" means any person, meeting the minimum requirements established by the committee, who works directly under the supervision of an audiologist.

(i) "Board" means the Division of Allied Health Professions of the Medical Board of California.

SEC. 2. Section 2530.5 of the Business and Professions Code is amended to read:

2530.5. (a) Nothing in this chapter shall be construed as restricting hearing testing conducted by licensed physicians and surgeons or by persons conducting hearing tests under the direct supervision of a physician and surgeon.

(b) Nothing in this chapter shall be construed to prevent a licensed hearing aid dispenser from engaging in testing of hearing and other practices and procedures used solely for the fitting and selling of hearing aids nor does this chapter restrict persons practicing their licensed profession and operating within the scope of their licensed profession or employed by someone operating within the scope of their licensed professions, such as persons fitting and selling hearing aids who are properly licensed or registered under the laws of the State of California.

(c) Nothing in this chapter shall be construed as restricting or preventing the practice of speech-language pathology or audiology by personnel holding the appropriate credential from the Commission on Teacher Credentialing as long as the practice is conducted within the confines of or under the jurisdiction of a public elementary or secondary school by which they are employed and those persons do not either offer to render or render speech-language pathology or audiology services to the public for compensation over and above the salary they receive from the public elementary or secondary school by which they are employed for the performance of their official duties.

(d) Nothing in this chapter shall be construed as restricting the activities in services of a student or speech-language pathology intern in speech-language pathology pursuing a course of study leading to a degree in speech-language pathology at an accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of his or her supervised course of study and that those persons are designated by the title as "speech-language pathology intern," "speech-language pathology trainee," or other title clearly indicating the training status appropriate to his or her level of training.

(e) Nothing in this chapter shall be construed as restricting the activities in services of a student or audiology intern in audiology pursuing a course of study leading to a degree in audiology at an accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of his or her supervised course of study and that those persons

are designated by the title as "audiology intern," "audiology trainee," or other title clearly indicating the training status appropriate to his or her level of training.

(f) Nothing in this chapter shall be construed as restricting the practice of an applicant who is obtaining the required professional experience specified in subdivision (d) of Section 2532.2 and whose required professional experience application has been approved by the committee. The number of applicants who may be supervised by a licensed speech-language pathologist or a speech-language pathologist having qualifications deemed equivalent by the committee shall be determined by the committee. The supervising speech-language pathologist shall register with the committee the name of each applicant working under his or her supervision, and shall submit to the committee a description of the proposed professional responsibilities of the applicant working under his or her supervision. The number of applicants who may be supervised by a licensed audiologist or an audiologist having qualifications deemed equivalent by the committee shall be determined by the committee. The supervising audiologist shall register with the committee the name of each applicant working under his or her supervision, and shall submit to the committee a description of the proposed professional responsibilities of the applicant working under his or her supervision. The committee shall not give any credit for any required professional experience which is completed in violation of this section.

(g) Nothing in this chapter shall be construed as restricting hearing screening services in public or private elementary or secondary schools so long as these screening services are provided by persons registered as qualified school audiometrists pursuant to Sections 1685 and 1686 of the Health and Safety Code or hearing screening services supported by the State Department of Health Services so long as these screening services are provided by appropriately trained or qualified personnel.

(h) Persons employed as speech-language pathologists or audiologists by a federal agency shall be exempt from this chapter.

(i) Nothing in this chapter shall be construed as restricting consultation or the instructional or supervisory activities of a faculty member of an approved or accredited college or university for the first 60 days following appointment after the effective date of this subdivision.

SEC. 3. Section 2530.6 of the Business and Professions Code is amended to read:

2530.6. Speech-language pathologists and audiologists supervising speech-language pathology or audiology aides shall register with the committee the name of each aide working under their supervision. The number of aides who may be supervised by a licensee shall be determined by the committee. The supervising audiologist or speech-language pathologist shall be responsible for the extent, kind, and quality of services performed by the aide,

consistent with the committee's designated standards and requirements.

SEC. 4. Section 2531 of the Business and Professions Code is amended to read:

2531. There is hereby created a Speech-Language Pathology and Audiology Examining Committee under the jurisdiction of the Division of Allied Health Professions of the Medical Board of California. The committee shall consist of nine members, three of whom shall be public members.

SEC. 5. Section 2531.1 of the Business and Professions Code is amended to read:

2531.1. Each member of the committee shall hold office for a term of four years, and shall serve until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No member may serve for more than two consecutive terms.

SEC. 6. Section 2531.4 of the Business and Professions Code is amended to read:

2531.4. The committee shall have full authority, subject to rules and regulations adopted by the board, to investigate and to evaluate each and every applicant applying for a license to practice speech-language pathology or a license to practice audiology and to recommend to the board for final determination the admission of the applicant to the examination, if administered by the committee, or to issue a license, in conformance with the provisions and qualifications required by this chapter.

SEC. 7. Section 2531.7 of the Business and Professions Code is amended to read:

2531.7. The committee shall elect annually a chairperson and vice chairperson from among its members. The committee shall hold at least one regular meeting each year. Additional meetings may be held upon call of the chairperson or at the written request of any two members of the committee.

SEC. 8. Section 2531.95 of the Business and Professions Code is amended to read:

2531.95. The committee shall from time to time adopt the regulations that may be necessary to effectuate this chapter. In adopting regulations the committee shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 9. Section 2532 of the Business and Professions Code is amended to read:

2532. No person shall engage in the practice of speech-language pathology or audiology or represent himself or herself as a speech-language pathologist or audiologist unless he or she is licensed in accordance with this chapter.

SEC. 9.5. Section 2532.1 of the Business and Professions Code is amended to read:

2532.1. (a) Each person desiring to obtain a license shall make application to the committee, upon a form as prescribed by the committee.

(b) A separate license shall be granted in both speech-language pathology and audiology. An applicant may be granted both licenses upon successful completion of the requirements for both licenses.

SEC. 10. Section 2532.2 of the Business and Professions Code is amended to read:

2532.2. To be eligible for licensure by the committee as a speech-language pathologist or audiologist, the applicant shall possess all of the following qualifications:

(a) Possess at least a master's degree in speech-language pathology or audiology from an educational institution approved by the committee or qualifications deemed equivalent by the committee.

(b) Submit transcripts from an educational institution approved by the committee evidencing the successful completion of at least 60 semester units of courses related to the normal development, function, and use of speech, hearing, and language; and courses that provide information about, and training in, the management of speech, hearing, and language disorders. At least 24 of the required 60 semester units shall be related to disorders of speech, voice, or language for speech-language pathology applicants or to disorders of hearing and the modification of communication disorders involving speech and language resulting from hearing disorders for audiology applicants. These 60 units do not include credit for thesis, dissertation, or clinical practice.

(c) Submit evidence of the satisfactory completion of supervised clinical practice with individuals representative of a wide spectrum of ages and communication disorders. The committee shall establish by regulation the required number of clock hours, not to exceed 300 clock hours, of supervised clinical practice necessary for the applicant.

The clinical practice shall be under the direction of an educational institution approved by the committee.

(d) Submit evidence of no less than nine months of satisfactorily completed supervised professional full-time experience or 18 months of professional part-time experience obtained under the supervision of a licensed speech-language pathologist or audiologist or a speech-language pathologist or audiologist having qualifications deemed equivalent by the committee. This experience shall be evaluated and approved by the committee. Any experience to be obtained in a setting which is not exempt from the licensure requirements under Section 2530.5 shall be approved in advance by the committee. The required professional experience shall follow completion of the requirements listed in subdivisions (a), (b), and (c). Full-time is defined as at least nine months in a calendar year and a minimum of 30 hours per week. Part-time is defined as a minimum of 18 months and a minimum of 15 hours per week.

A speech-language pathologist or audiologist who holds a license from another state or territory of the United States or who holds equivalent qualifications and has made application to the committee for a license in this state may practice speech-language pathology or audiology, as the case may be, without a valid license for a period not to exceed 150 days. With the approval of the committee, such a speech-language pathologist or audiologist may be issued a license on completion of the requirements specified in subdivisions (a), (b), (c), and (e).

(e) Pass an examination or examinations approved by the committee. The committee shall determine the subject matter and scope of the examinations and may waive the examination upon evidence that the applicant has successfully completed an examination approved by the committee. Written examinations may be supplemented by such oral examinations as the committee shall determine. An applicant who fails his or her examination may be reexamined at a subsequent examination upon payment of the reexamination fee required by this chapter.

SEC. 11. Section 2532.4 of the Business and Professions Code is amended to read:

2532.4. (a) The committee may direct applicants to be examined for knowledge in whatever theoretical or applied fields in speech-language pathology or audiology it deems appropriate. It may examine the applicant with regard to his or her professional skills and his or her judgment in the utilization of speech-language pathology or audiology techniques and methods.

(b) The examination may be written or oral or both. The examination shall be given at least once a year at the time and place and under such supervision as the committee may determine. The committee shall determine what shall constitute a passing grade.

(c) The committee shall keep an accurate recording of any oral examination and keep the recordings as well as any written examination as part of its records for at least two years following the date of examination.

SEC. 12. Section 2533 of the Business and Professions Code is amended to read:

2533. The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee if he or she has been guilty of unprofessional conduct, which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include, but shall not be limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist, as the case may be. The record of the conviction shall be conclusive evidence thereof.

(b) Securing a license by fraud or deceit.

(c) (1) The use or administering to himself or herself, of any

controlled substance; (2) the use of any of the dangerous drugs specified in Section 4211, or of alcoholic beverages, to the extent, or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology of audiology safely; (3) more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section; or (4) any combination of paragraphs (1), (2), or (3). The record of the conviction shall be conclusive evidence of unprofessional conduct.

(d) Advertising in violation of Section 17500.

(e) Committing a dishonest or fraudulent act which is substantially related to the qualifications, functions, or duties of a licensee.

SEC. 13. Section 2533.1 of the Business and Professions Code is amended to read:

2533.1. 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 speech-language pathologist or audiologist is deemed to be a conviction within the meaning of this article. The board may order a licensee be disciplined or denied a license as provided in Section 2533 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 14. Section 2533.2 of the Business and Professions Code is amended to read:

2533.2. Proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 15. Section 2533.4 of the Business and Professions Code is amended to read:

2533.4. Whenever any person other than a licensed speech-language pathologist or audiologist has engaged in any act or practice which constitutes an offense against this chapter, a superior court of any county, on application of the committee, may issue an injunction or other appropriate order restraining that conduct. 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. The committee may commence action in the superior court under this section on its own motion.

SEC. 16. Section 2534 of the Business and Professions Code is amended to read:

2534. The committee shall report to the Controller at the beginning of each month for the month preceding the amount and

source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit in the Speech-Language Pathology and Audiology Examining Committee Fund, which fund is hereby created and is continuously appropriated to carry out the purposes of this chapter.

SEC. 17. Section 2534.1 of the Business and Professions Code is amended to read:

2534.1. The committee shall keep such records as will reasonably ensure that funds expended in the administration of each licensing or registration category shall bear a reasonable relation to the revenue derived from each category.

SEC. 18. Section 2534.2 of the Business and Professions Code is amended to read:

2534.2. The amount of the fees prescribed by this chapter is that fixed by the following schedule:

(1) The application fee and renewal fee shall be fixed by the committee in an amount which does not exceed one hundred fifty dollars ($150) but is sufficient to support the functions of the committee which relate to the functions authorized by this chapter.

(2) The delinquency fee shall be ten dollars ($10).

(3) The reexamination fee shall be fixed by the committee in an amount which does not exceed seventy-five dollars ($75).

(4) The fee for registration of an aide shall be fixed by the committee in an amount which does not exceed thirty dollars ($30).

(5) The fee for issuance of a duplicate license shall not exceed ten dollars ($10).

SEC. 19. Section 2535.2 of the Business and Professions Code is amended to read:

2535.2. Except as provided in Section 2535.3, a license which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the committee and payment of the renewal fee in effect on the last regular renewal date. If the license is not renewed within 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the prescribed delinquency fee. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 2535, after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

SEC. 20. Section 2535.4 of the Business and Professions Code is amended to read:

2535.4. A person who fails to renew his or her license within the 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 license if he or she meets all of the following requirements:

(a) Has not committed any acts or crimes constituting grounds for

denial of licensure under Division 1.5 (commencing with Section 475).

(b) Takes and passes the examination or examinations, if any, which would be required of him or her if an initial application for licensure 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 a speech-language pathologist or audiologist, as the case may be.

(c) Pays all of the fees that would be required if an initial application for licensure was being made. In addition, the committee may charge the applicant a fee to cover the actual costs of any examination that it may administer.

SEC. 21. Section 2536 of the Business and Professions Code is amended to read:

2536. A speech-language pathology corporation or an audiology corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are speech-language pathologists or audiologists are in compliance with the Moscone-Knox Professional Corporation Act, this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a speech-language pathology corporation or an audiology corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Speech-Language Pathology and Audiology Examining Committee of the Medical Board of California.

SEC. 22. Section 2539 of the Business and Professions Code is amended to read:

2539. The committee may adopt and enforce regulations to carry out the purposes and objectives of this article, and the Moscone-Knox Professional Corporation Act, including regulations requiring (a) that the bylaws of a speech-language pathology corporation or an audiology corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person as defined in Section 13401 of the Corporations Code, or a deceased person shall be sold to the corporation or to the remaining shareholders of the corporation within such time as the regulations may provide, and (b) that a speech-language pathology corporation or an audiology corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

CHAPTER 747

An act to amend Sections 3039 and 7126 of the Fish and Game Code, relating to fish and game.

[Approved by Governor September 10, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 3039 of the Fish and Game Code is amended to read:

3039. Except as otherwise provided in Sections 3087 and 4303, or any other provision of this code, it is unlawful to sell or purchase any bird or mammal or part thereof.

SEC. 2. Section 7121 of the Fish and Game Code is amended to read:

7121. Except as otherwise provided by this code or by regulation, it is unlawful to sell or purchase any fish or amphibia taken in, or brought into, the waters of the state, or brought ashore at any point in the state.

It is unlawful to buy, sell, or possess in any place of business where fish are bought, sold, or processed, any fish or amphibia taken on any boat, barge, or vessel which carries sport fishermen, except those fish may be possessed in such a place only for the purposes of canning or smoking under regulations adopted by the commission.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 748

An act to amend Sections 3751, 3752, 3753, 3754, 3756, and 3759 of, to add Section 3756.3 to, and to repeal and add Section 3755 of, the Financial Code, relating to financial institutions, and making an appropriation therefor.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 3751 of the Financial Code is amended to read:

3751. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

(a) "Bank holding company" means (1) any company that has control over any bank or over any company that has control over any bank, or (2) any foreign bank.

(b) "Bank" means a bank, as that term is defined in Section 102, and includes a national banking association, but does not include a bank that engages only in a trust business.

(c) "California bank" means a bank that maintains its head office in this state.

(d) "California bank holding company" means a bank holding company the operations of which are principally conducted in this state.

(e) "Company" means any person, bank, corporation, trust company, partnership, trust, association, or similar organization. However, "company" shall not include an individual. Also, "company" shall not include any corporation the majority of the shares of which are owned by the United States or by any state.

(f) "Control" means any of the following:

(1) Direct or indirect ownership of, or power to vote, 25 percent or more of any class of voting securities of a company.

(2) Direct or indirect power to control in any manner the election of a majority of directors of a company.

(3) Direct or indirect power to exercise in any manner a controlling influence over the management or policies of a company.

(g) "Foreign bank holding company" means any bank holding company other than a California bank holding company.

(h) "Parent foreign bank holding company" means, with respect to a foreign bank holding company, any and all companies that control that foreign bank holding company.

(i) "Foreign bank," "foreign (other nation) bank," and "foreign (other state) bank" have the meanings set forth in Section 1700.

(j) "Subsidiary" means any company that is controlled by another company.

(k) "State" means any state of the United States, or the District of Columbia.

(*l*) "Substantial reciprocity" means (1) that the statute laws of a state have the effect of authorizing, for the purposes of subsection (d) of Section 3 of the federal Bank Holding Company Act of 1956, as amended (12 U.S.C. Sec. 1841 et seq.), and that these laws as interpreted and applied authorize, any California bank holding company to acquire up to 100 percent ownership (except for

directors' qualifying shares) of any bank that maintains its head office in that state on terms and conditions substantially the same as terms and conditions pursuant to which a bank holding company, the operations of which are principally conducted in the state may acquire a bank located in the same state, and (2) that, under the laws of that jurisdiction as interpreted and applied, banks that maintain their head offices therein, when acquired, directly or indirectly, by any California bank holding company, have substantially all the powers and capabilities, without limitation, restriction or condition, that such a bank would have if it were acquired by a bank holding company the operations of which are principally conducted in the state in which the bank maintains its head office.

SEC. 2. Section 3752 of the Financial Code is amended to read:

3752. For purposes of this chapter:

(a) (1) In the case of a foreign (other nation) bank that (A) at the time of, or (B) (if it had no such home state previously) as a result of, effecting a transaction of the type described in Section 3754 with respect to a California bank or California bank holding company, has a home state under Section 5 of the International Banking Act of 1978 (12 U.S.C. Sec. 3103) and related regulations, the state in which the operations of the foreign (other nation) bank are principally conducted is the home state.

(2) In the case of a bank holding company that (A) controls a foreign (other nation) bank of the type described in paragraph (1), (B) is not a bank that maintains its head office in a state, and (C) does not, except indirectly through the foreign (other nation) bank, control any bank that maintains its head office in a state, the state in which the operations of the bank holding company are principally conducted is the home state of the foreign (other nation) bank.

(3) In the case of a foreign (other state) bank, the state in which the operations of the foreign (other state) bank are principally conducted is that state in which the total deposits of the foreign (other state) bank and all of its subsidiaries are largest.

(4) In the case of any other bank holding company, the state in which the operations of the bank holding company are principally conducted is that state in which the total deposits of all of the bank holding company's subsidiary banks are largest.

(b) The definitions in Chapter 1 (commencing with Section 99) of this division apply to this chapter, except with respect to terms defined by Section 3751.

(c) Shares owned or controlled by any subsidiary of a bank holding company shall be deemed to be indirectly owned or controlled by such bank holding company.

(d) Shares held or controlled, directly or indirectly, by trustees for the benefit of (1) a company, (2) the shareholders or members of a company, or (3) the employees (whether exclusively or not) of a company, shall be deemed to be controlled by that company.

(e) A company shall not be deemed to control another company solely on account of any of the following circumstances:

(1) In case a company acquires ownership or control of shares of another company in a fiduciary capacity, unless the acquiring company has sole discretionary authority to exercise any voting rights with respect to the shares or unless the transaction is subject to subdivision (d).

(2) In case a company acquires ownership or control of shares of another company in connection with the acquiring company's underwriting of securities, provided that the acquiring company holds the shares only for that period that will permit it to sell the shares on a reasonable basis.

(3) In case a company formed for the sole purpose of participating in a proxy solicitation acquires control of the voting rights of shares of another company in the course of the solicitation.

(4) In case a company acquires ownership or control of shares of another company in the regular course of securing or collecting a debt previously contracted in good faith, provided that the acquiring company obtains the superintendent's approval under Section 3756.3 before acquiring the shares and disposes of the shares within two years after the date of acquisition or within that additional period (not to exceed three years) that the superintendent may approve.

SEC. 3. Section 3753 of the Financial Code is amended to read:

3753. On and after January 1, 1991, a foreign bank holding company may, with the prior approval of the superintendent and in accordance with the provisions of this chapter and division, do any of the following:

(a) Cause or permit an existing California bank or California bank holding company to become its subsidiary.

(b) Acquire direct or indirect ownership of, or power to vote, more than 5 percent of the voting shares of any California bank or California bank holding company.

(c) Acquire, directly or indirectly, all or substantially all of the assets of any California bank or assume, directly or indirectly, any of the deposits of a California office of a California bank.

(d) Merge or consolidate with any California bank or California bank holding company.

SEC. 4. Section 3754 of the Financial Code is amended to read:

3754. Except as otherwise permitted by this chapter, no foreign bank holding company shall do any of the following:

(a) Cause or permit a California bank or California bank holding company to become its subsidiary.

(b) Cause or permit a subsidiary to become a California bank or California bank holding company.

(c) Acquire direct or indirect ownership of, or power to vote, more than 5 percent of the voting shares of any California bank or California bank holding company.

(d) Acquire, directly or indirectly, all or substantially all of the assets of any California bank or assume, directly or indirectly, any of the deposits of a California office of a California bank.

(e) Merge or consolidate with any California bank or California

bank holding company.

SEC. 5. Section 3755 of the Financial Code is repealed.

SEC. 6. Section 3755 is added to the Financial Code, to read:

3755. (a) Sections 3753 and 3754 shall not apply to any of the following:

(1) Any acquisition by a bank of shares in good faith in fiduciary capacity, unless the transaction is subject to subdivision (d) of Section 3752 or unless the shares are held under a trust which is a business trust or any trust other than a trust which by its terms terminates within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust.

(2) Any acquisition by a bank of shares in the regular course of securing or collecting a debt previously contracted in good faith, provided that the bank shall obtain the superintendent's approval under Section 3756.3 before acquiring the shares and shall dispose of the shares within two years after the date of acquisition or within such additional period (not to exceed three years) as the superintendent may approve.

(b) Subdivision (c) of Section 3753 and subdivision (d) of Section 3754 shall not apply to the merger or consolidation of a California bank with another California bank, the acquisition of any assets, or the assumption of any deposits of a California bank by another California bank. However, the surviving bank in the case of a merger, the resulting bank in the case of a consolidation, the acquiring bank in the case of an acquisition of assets, or the assuming bank in the case of an assumption of deposits shall be a "bank," as defined in Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841(c)), as in effect August 9, 1987, unless the other bank is not a "bank" as so defined.

(c) Section 3753 and 3754 shall not apply to the merger of a foreign bank holding company with a California bank or California bank holding company, provided that all of the following requirements are met:

(1) The California bank or California bank holding company shall be the surviving corporation.

(2) The merger shall not result in any change of control of the California bank or California bank holding company.

(3) The persons who own the shares of the California bank or California bank holding company immediately before the merger shall, immediately after the merger, own not less than a majority of the shares of the surviving corporation. For purposes of this paragraph, a person shall not be considered to own any shares of the surviving corporation acquired pursuant to the merger as a result of ownership by that person of shares of the foreign bank holding company, but all shares so acquired shall be counted when calculating the total number of shares outstanding. Also, for purposes of calculations under this paragraph, the conversion of all securities convertible immediately or at some future time into shares shall be assumed but, the exercise of any warrant or right to subscribe for or

purchase shares shall not be assumed.

(4) Immediately after the merger, either (A) the surviving corporation shall principally conduct its operations in an eligible state, or (B) the aggregate of the total deposits of the surviving corporation and the total deposits of all of its subsidiary and affiliate banks that maintain their head offices in eligible states shall be greater than the aggregate of the total deposits of all of the surviving corporation's subsidiary and affiliate banks that maintain their head offices in the United States but not in eligible states, and, in either event, the surviving corporation shall not be controlled by any foreign bank holding company or parent foreign bank holding company whose operations are not principally conducted in an eligible state. As used in this paragraph, "eligible state" means California or another state that has substantial reciprocity with California, as determined by the superintendent, and "affiliate bank" means a bank controlled by a bank holding company that controls the surviving corporation.

SEC. 7. Section 3756 of the Financial Code is amended to read:

3756. (a) An application for approval of a transaction described in Section 3753 shall be in such form, shall contain such information, shall be signed in such manner, and shall (if the superintendent so requires) be verified in such manner, as the superintendent may require. The fee for filing such an application shall be two thousand five hundred dollars ($2,500).

(b) The superintendent shall approve the transaction if the superintendent makes both of the following findings, but shall otherwise deny the application:

(1) That there is substantial reciprocity between this state and the state or states in which the operations of the foreign bank holding company and any parent foreign bank holding company of the foreign bank holding company are principally conducted.

(2) That the transaction will not have an adverse effect on the public convenience or advantage in this state.

Nothing in this subdivision requires substantial reciprocity with respect to any jurisdiction that is not a state.

(c) Before a foreign bank holding company effects a transaction of a kind described in Section 3753 which would result in its controlling a bank organized under the laws of this state, the foreign bank holding company and each parent foreign bank holding company of the foreign bank holding company shall file with the superintendent an agreement that it will comply, and that it will cause any company which it from time to time controls to comply, with all applicable provisions of this division and of any regulation or order issued under this division. This agreement shall be in such form, shall be signed in such manner, and shall (if the superintendent so requires) be acknowledged in such manner, as the superintendent may require.

SEC. 8. Section 3756.3 is added to the Financial Code, to read:

3756.3. (a) An application for approval to acquire shares under

paragraph (4) of subdivision (e) of Section 3752 or paragraph (2) of subdivision (a) of Section 3755 shall be in the form, and shall contain the information, shall be signed in the manner, and shall, if the superintendent so requires, be verified in the manner, that the superintendent may require. The fee for filing the application is five hundred dollars ($500).

(b) The superintendent shall not approve the acquisition of shares unless the superintendent finds that the acquisition is not part of a plan to evade the provisions of this chapter.

SEC. 9. Section 3759 of the Financial Code is amended to read:

3759. (a) The superintendent may provide to any federal regulatory agency or to any regulatory agency of any other state of the United States information relating to any of the following:

(1) Any foreign bank holding company which has applied for approval to effect a transaction described in Section 3753 or which controls a California bank.

(2) Any California bank or other company which such a foreign bank holding company controls or proposes to control.

(3) Any parent foreign bank holding company of such a foreign bank holding company.

(4) Any California bank, California bank holding company, or other company that is or is proposed to be in control of, or under common control with, a bank that maintains its head office in another state.

(b) The provisions of this section shall be in addition to, and not in limitation of, the provisions of Section 1909.

CHAPTER 749

An act to add Section 608 to the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 608 is added to the Welfare and Institutions Code, to read:

608. In any case in which a person is alleged to be a person described in Section 601 or 602, or subdivision (a) of Section 604, and the age of the person is at issue and the court finds that a scientific or medical test would be of assistance in determining the age of the person, the court may consider ordering an examination of the minor using the method described in "The Permanent Mandibular Third Molar" from the Journal of Forensic Odonto-Stomatology, Vol. 1: No. 1: January–June 1983.

CHAPTER 750

An act to amend Sections 27561, 27581, 27601, and 27671 of, and to add Sections 27581.2, 27581.4, 27581.9, and 27582 to, the Food and Agricultural Code, relating to eggs.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 27561 of the Food and Agricultural Code is amended to read:

27561. (a) The director shall enforce this chapter, and the regulations adopted pursuant to this chapter.

(b) The commissioners of each county, their deputies, and qualified inspectors, under the supervision and control of the director, shall enforce this chapter and the regulations which are adopted by the director pursuant to this chapter.

(c) Except as provided in Sections 27581 and 27601, and any of the violations enumerated in paragraph (1) of subdivision (a) of Section 27671, before any state or local official may commence legal prosecution of a handler based on a violation of this chapter, or the regulations adopted pursuant to this chapter, the handler shall be given an opportunity for a hearing with respect to the alleged violation. The director shall establish, with the advice of the committee, a policy manual which sets forth procedures for providing notice to a person charged with the violation, and for conducting the hearing. The policy manual is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 27581 of the Food and Agricultural Code is amended to read:

27581. The director may bring an action to enjoin any violation or any threatened violation of this chapter or any regulations adopted pursuant to this chapter in the superior court in the county in which the violation occurred or is about to occur. Any proceeding pursuant to this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The director shall not, however, be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss.

SEC. 3. Section 27581.2 is added to the Food and Agricultural Code, to read:

27581.2. In lieu of seeking prosecution of any violation of this chapter, or the regulations adopted pursuant to this chapter, as a misdemeanor pursuant to Section 27671, the director may bring a civil action pursuant to Sections 27581 and 27581.4.

SEC. 4. Section 27581.4 is added to the Food and Agricultural Code, to read:

27581.4. (a) The director may bring a civil action against any person who violates this chapter or any regulation adopted pursuant to this chapter, and any person who commits that violation is liable civilly in an amount not to exceed one thousand dollars ($1,000).

(b) Any money recovered under this section shall be deposited in the Department of Food and Agriculture Fund for use by the department in administering this chapter, when appropriated to the department for that purpose.

SEC. 5. Section 27581.9 is added to the Food and Agricultural Code, to read:

27581.9. A legal prosecution pursuant to this chapter shall be commenced within three years of the occurrence of the violation. However, once an investigation is completed and the appropriate documents have been submitted to the director, as determined by the director, the action shall be commenced within one year of that submission.

SEC. 6. Section 27582 is added to the Food and Agricultural Code, to read:

27582. Except as provided in Section 27601, the director shall commence any civil action based on a violation of this chapter, and the regulations adopted pursuant to this chapter, which shall be limited to the remedies provided for in this chapter.

SEC. 7. Section 27601 of the Food and Agricultural Code is amended to read:

27601. Upon the request of the director or an authorized representative, the district attorney of the county in which the eggs and their containers which are a public nuisance are found, shall maintain, in the name of the people of the State of California, a civil action to abate and prevent the public nuisance.

Upon judgment and by order of the court, the eggs and their containers which are a public nuisance shall be condemned and destroyed in the manner which is directed by the court, or reconditioned, re-marked, denatured, or otherwise processed, or released upon the conditions as the court in its discretion may impose to ensure that the nuisance is abated.

If the owner fails to comply with the order of the court within the time specified in the order, the court may order disposal of the eggs and their containers or their sale, under the terms and conditions as the court may prescribe, by the enforcement officer, or by the sheriff, marshal, or constable.

If the court orders the sale of any of the eggs and their containers which can be salvaged, the costs of disposal shall be deducted from the proceeds of sale and the balance paid into court for the owner.

In actions arising pursuant to this chapter or any regulation adopted pursuant to this chapter the following limits shall apply:

(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to five thousand dollars

($5,000) or less.

(b) Justice courts shall have original jurisdiction where the value amounts to five hundred dollars ($500) or less.

A public nuisance described in this section may only be abated in any action or proceeding pursuant to the remedies provided by this chapter. This chapter provides the exclusive source of costs and civil penalties which may be assessed by reason of the public nuisance against the owner of eggs and their containers which are found to be a public nuisance.

SEC. 8. Section 27671 of the Food and Agricultural Code is amended to read:

27671. (a) The following persons are guilty of a misdemeanor:

(1) Any person who violates Section 27632, 27638, 27639, 27640, or 27672.

(2) Any person who commits a second or subsequent violation of this chapter, or any regulation adopted pursuant to this chapter, that is the same as a prior violation.

(3) Any person whose intentional violation of this chapter, or regulations adopted pursuant to this chapter, resulted, or reasonably could have resulted, in the creation of a hazard to human health or the environment, or in the disruption of the marketing of eggs.

(b) Any person guilty of a misdemeanor as provided in this section is punishable as follows:

(1) In any case of willful or intentional violation, by imprisonment in the county jail not to exceed six months, or by a fine not to exceed one thousand dollars ($1,000), or by both.

(2) In any case which does not involve willful or intentional violation, by a fine not to exceed one thousand dollars ($1,000).

Any prosecution for a violation of this chapter or any regulation adopted pursuant to this chapter may be instituted in any county where any part of the offense occurred. Any evidence which is taken by any enforcement officer in any county may be admitted in evidence in any prosecution in any other county.

CHAPTER 751

An act to add Section 658.7 to the Harbors and Navigation Code, and to amend Section 853.2 of the Penal Code, relating to boating safety.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 658.7 is added to the Harbors and Navigation Code, to read:

658.7. (a) Failure of the operator of a vessel involved in towing

a skier to display or cause to be displayed a ski flag, as described in subdivision (a) of Section 7009 of Title 14 of the California Code of Regulations, to indicate any of the following conditions, is an infraction punishable by a fine not exceeding fifteen dollars ($15):

(1) A downed skier.

(2) A skier in the water preparing to ski.

(3) A ski line extended from the vessel.

(4) A ski in the water in the vicinity of the vessel.

(b) Subdivision (a) does not apply to a performer engaged in a professional exhibition or a person engaged in a regatta, vessel or water ski race or competition, or other marine event authorized pursuant to Section 268.

SEC. 2. Section 853.2 of the Penal Code is amended to read:

853.2. (a) All courts and officers now or hereafter having and exercising jurisdiction in any county which is now or may hereafter be formed in any part of this state bordering upon the Colorado River, or any lake formed by, or which is a part of, the Colorado River, shall have and exercise jurisdiction in all criminal cases upon those waters concurrently with the courts of and officers of the State of Arizona, so far and to the extent that any of these bodies of water form a common boundary between this state and the State of Arizona.

(b) This section applies only to those crimes which are established in common between the States of Arizona and California; and an acquittal or conviction and sentence by one state shall bar a prosecution for the same act or omission by the other.

(c) This compact shall not be construed to bar the enforcement of the penal laws of either state not established in common with the other, provided that the act or omission proscribed occurs on that state's side of the river channel boundary.

(d) This compact does not apply to Division 3.5 (commencing with Section 9840) of the Vehicle Code, relating to registration of vessels, or to Section 658.7 of the Harbors and Navigation Code, relating to the display of a ski flag.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 752

An act to amend Sections 540, 542, 545, 546.5, 547, 550, and 551 of the Code of Civil Procedure, relating to domestic violence.

[Approved by Governor September 10, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 540 of the Code of Civil Procedure is amended to read:

540. The purposes of this chapter are to prevent the recurrence of acts of violence and sexual abuse against a spouse, former spouse, cohabitant, former cohabitant, any other adult person related by consanguinity or affinity within the second degree, or a person with whom the respondent has had a child or has had a dating or engagement relationship, and to provide for a separation of the persons involved in the domestic violence for a period sufficient to enable those persons to seek a resolution of the causes of the violence.

SEC. 2. Section 542 of the Code of Civil Procedure is amended to read:

542. As used in this chapter, the following words have the following meanings:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or sexual assault, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(b) "Domestic violence" is abuse perpetrated against any of the following:

(1) A spouse, former spouse, cohabitant, former cohabitant, any other adult person related by consanguinity or affinity within the second degree, or a person with whom the respondent has had a dating or engagement relationship.

(2) A person who is the parent of a child and the presumption applies that the male parent is the father of any child of the female parent pursuant to the Uniform Parentage Act (Part 7 (commencing with Section 7000) of Division 4 of the Civil Code).

(c) "Cohabitant" means a person who regularly resides in the household. "Former cohabitant" means a person who formerly regularly resided in the household.

(d) "Protective order" means an order issued by the court to the restrained party not to do any or all of the following: (1) contact, (2) molest, (3) attack, (4) strike, (5) threaten, (6) sexually assault, (7) batter, (8) telephone, or (9) disturb the peace of the persons described in this chapter.

SEC. 3. Section 545 of the Code of Civil Procedure is amended to read:

545. A temporary restraining order may be granted with or

without notice to restrain any person upon an affidavit which, to the satisfaction of the court, shows reasonable proof of a past act or acts of abuse for the purpose of preventing a recurrence of domestic violence and assuring a period of separation of the persons involved. A temporary restraining order may be granted pursuant to this chapter to any person described in Section 542. The right to petition for relief shall not be denied because the petitioner has vacated the household to avoid abuse, and in the case of a marital relationship, notwithstanding that a petition for legal separation, nullity of marriage, or dissolution of marriage has not been filed. Such order may be granted in the manner provided in Section 527. The petition, the temporary order, and the order after the hearing shall be valid and enforceable without explicitly stating the address of the applicant or the applicant's place of residence, school, employment, the place where his or her child is provided child care services, or his or her child's school.

SEC. 4. Section 546.5 of the Code of Civil Procedure is amended to read:

546.5. (a) There shall be no filing fee for a petition or response relating to a protective order, restraining order, or a permanent injunction restraining violence or threats of violence in an action brought pursuant to this chapter.

(b) Fees otherwise payable by a petitioner to a law enforcement agency for serving an order obtained under this section may be waived in any case in which the petitioner has requested a fee waiver on the initiating petition and has filed a declaration that demonstrates to the satisfaction of the court, the financial need of the petitioner for the fee waiver. The petitioner shall file the declaration on one of the following forms:

(1) The form formulated and adopted by the Judicial Council for litigants proceeding in forma pauperis pursuant to Section 68511.3 of the Government Code, but the petitioner shall not be subject to any other requirements of litigants proceeding in forma pauperis.

(2) Any other form that the Judicial Council may adopt for this purpose pursuant to Section 543.

The court may issue an order, in conjunction with a hearing pursuant to this chapter, for the waiver of fees otherwise payable by the petitioner to a law enforcement agency for serving an order obtained under this section.

SEC. 5. Section 547 of the Code of Civil Procedure is amended to read:

547. The court may issue upon notice and a hearing, any of the following orders:

(a) Any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the petitioner and the respondent, any of the orders set forth in paragraphs (2), (3), (5) and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the petitioner and the respondent an order determining the temporary custody of the

child. After notice and a hearing, the court may order the exclusion of one party from the common dwelling of both parties or from the dwelling of the other party on a finding only that physical or emotional harm would otherwise result to the other party or any person under the care, custody, or control of the other party or to any minor child of the parties or of the other party.

(b) Where there exists a presumption that the respondent is the natural father of any minor child, pursuant to Section 7004 of the Civil Code, and the child is in the custody of the petitioner, the court may order a party to pay any amount necessary for the support and maintenance of the child if such an order would otherwise be authorized in an action brought pursuant to Part 7 of Division 4 (commencing with Section 7000) of the Civil Code; however, any order pursuant to this subdivision shall be without prejudice in any such action.

(c) An order that restitution be paid to the family or household member for loss of earnings and out-of-pocket expenses, including, but not limited to, expenses for medical care and temporary housing, incurred as a direct result of the abuse or any actual physical injuries sustained therefrom; an order that restitution be paid by plaintiff for out-of-pocket expenses incurred by a party as a result of any order issued ex parte which is found by the court to have been issued upon facts shown at a noticed hearing to be insufficient to support the order; or an order requiring that the defendant shall pay any public or private agency for the reasonable cost of providing services to a family or household member required as a direct result of the abuse inflicted by the defendant or any actual injuries sustained therefrom.

(d) An order requiring any party to participate in counseling with a licensed mental health professional, or through other community programs and services that provide appropriate counseling, including, but not limited to, mental health or substance abuse services, where it is shown that the parties intend to continue to reside in the same household or have continued to reside in the same household after previous instances of domestic violence. The court may also order a restrained party to participate in batterer's treatment counseling. Where there has been a history of domestic violence between the parties, as domestic violence is defined in this chapter, and a protective order is in effect, at the request of the party protected by the order, the parties shall participate in counseling separately and at separate times. The court shall fix the costs and shall order the entire cost of the services to be borne by the parties in the proportion as the court deems reasonable. Prior to issuing the court order requiring counseling, the court shall find that the financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations.

(e) An order for the payment of attorneys' fees and costs of the prevailing party.

SEC. 6. Section 550 of the Code of Civil Procedure is amended to read:

550. (a) The court shall order the petitioner or the attorney for the petitioner to deliver, or the county clerk to mail, a copy of any order, or extension, modification or termination granted pursuant to this chapter, by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the petitioner or the attorney for the petitioner and such other locations where the court determines the acts of domestic violence against the petitioner are likely to occur.

(b) In addition, the court shall order the county clerk to provide, without cost, to a party five certified, stamped, and endorsed copies of any order, extension, modification, or termination thereof granted pursuant to this chapter.

(c) Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued pursuant to this chapter to any law enforcement officer responding to the scene of reported domestic violence.

(d) Any restraining order against domestic violence issued pursuant to this chapter may, upon request of the petitioner, be served upon the respondent by any law enforcement officer who is present at the scene of reported domestic violence involving the parties to the action. The moving party shall provide the officer with an endorsed copy of the order and a proof of service which the officer shall complete and transmit to the issuing court.

(e) If any person named in an order issued pursuant to this section has not been served personally with the order but has received actual notice of the existence and substance of that order through personal appearance in court to hear the terms of the order from the court, no additional proof of service shall be required for enforcement of that order.

(f) The judicial forms for temporary orders and orders after hearing shall contain a statement in substantially the following form:

"NO ADDITIONAL PROOF OF SERVICE SHALL BE REQUIRED IF THE FACE OF THIS FORM INDICATES THAT BOTH PARTIES ARE PERSONALLY PRESENT AT THE HEARING WHERE THE ORDER WAS ISSUED."

(g) It shall be a rebuttable presumption that the proof of service was signed on the date of service.

SEC. 7. Section 551 of the Code of Civil Procedure is amended to read:

551. Any willful and knowing violation of any order authorized in this chapter granted in accordance with the terms of paragraph (2), (3) or (6) of subdivision (a) of Section 4359 of the Civil Code shall be a crime punishable under Section 273.6 of the Penal Code.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 753

An act to amend Section 1266.1 of the Health and Safety Code, and to amend Section 5652.5 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 1266.1 of the Health and Safety Code is amended to read:

1266.1. (a) Each new or renewal application for a license for a psychiatric health facility shall be accompanied by a fee equal in amount to the fee for an acute psychiatric hospital as specified in subdivision (a) of Section 1266 or, as modified by subdivision (e).

(b) New or renewal licensure application fees for psychiatric health facilities shall be collected by the State Department of Mental Health.

(c) The State Department of Mental Health shall make available to the Legislature and other interested parties, on or before January 17 of each year, information describing program costs within the State Department of Mental Health for licensure, regulation, and monitoring of psychiatric health facilities.

(d) The annual fees shall be waived for any psychiatric health facility conducted, maintained, or operated by this state or any state department, authority, bureau, commission, or officer, or by the Regents of the University of California, or by a local hospital district, city, county, or city and county.

(e) If additional private psychiatric health facilities seek new licensure on or after January 1, 1991, the State Department of Mental Health may increase the fees for all private psychiatric health facilities with more than nine beds sufficient to accommodate the increased level of workload and costs.

SEC. 2. Section 5652.5 of the Welfare and Institutions Code is amended to read:

5652.5. (a) Psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, shall only be licensed by the

State Department of Mental Health subsequent to application by counties, county contract providers, or other organizations pursuant to this part.

(b) (1) For counties or county contract providers that choose to apply, the local mental health director shall first present to the local mental health advisory board for its review an explanation of the need for such facility and a description of the services to be provided. The local mental health director shall then submit to the governing body such explanation and description in the form of an amendment to the county Short-Doyle plan. The governing body, upon its approval of the amendment, may submit the amendment and application to the State Department of Mental Health.

(2) Other organizations that seek to apply for licensure and do not intend to use any Short-Doyle funds pursuant to Section 5707 shall submit their approval requests to the governing body in the county in which the facility is to be located. The governing body shall have 30 days during which to make recommendations on the applications. At any time after such 30-day period, the organizations may then submit their applications, along with the governing body's recommendations, if any, to the State Department of Mental Health.

(c) The State Fire Marshal and other appropriate state agencies, to the extent required by law, shall cooperate fully with the State Department of Mental Health to assure that the State Department of Mental Health approves or disapproves the licensure applications not later than 90 days after the application submission by a county, county contract provider, or other organization.

(d) Every psychiatric health facility and program for which a license has been issued shall be periodically inspected by a multidisciplinary team appointed or designated by the State Department of Mental Health. The inspection shall be conducted no less than once every two years and as often as necessary to assure the quality of care provided. During the inspections the review team shall offer such advice and assistance to the psychiatric health facility as it deems appropriate.

(e) (1) The program aspects of a psychiatric health facility which shall be reviewed and may be approved by the State Department of Mental Health shall include, but not be limited to:

(A) Activities programs.
(B) Administrative policies and procedures.
(C) Admissions.
(D) Discharge planning.
(E) Health records content.
(F) Health records service.
(G) Interdisciplinary treatment teams.
(H) Nursing services.
(I) Patient rights.
(J) Pharmaceutical services.
(K) Program space requirements.
(L) Psychiatrist and clinical psychological services.

(M) Rehabilitation services.
(N) Restraint and seclusion.
(O) Social work services.
(P) Space, supplies, and equipment.
(Q) Staffing standards.
(R) Unusual occurrences.
(S) Use of outside resources, including agreements with general acute care hospitals.

(2) The State Department of Mental Health has the sole authority to grant program flexibility.

(f) The State Department of Mental Health shall adopt regulations which shall include, but not be limited to, the following:

(1) Procedures by which the State Department of Mental Health shall review and may approve the program and facility requesting licensure as a psychiatric health facility as being in compliance with program standards established by the department.

(2) Procedures by which the Director of Mental Health shall deny approval or approve, the program and facility licensed as a psychiatric health facility pursuant to Section 5652.5.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program and facility standards.

(4) Provisions for the State Department of Mental Health for any administrative proceeding regarding denial, suspension, or revocation of a psychiatric health facility license.

(g) Regulations shall be adopted by the State Department of Mental Health, which shall establish standards for pharmaceutical services in psychiatric health facilities. Licensed psychiatric health facilities shall be exempt from requirements to obtain a separate pharmacy license or permit.

(h) (1) It is the intent of the Legislature that the State Department of Mental Health shall license the facility in order to establish innovative and more competitive acute care services as alternatives to hospital care.

(2) The State Department of Mental Health shall review and may approve the program aspects of public or private facilities, with the exception of those facilities which are federally certified or accredited by a nationally recognized commission which accredits health care facilities, only if the average per diem charges or costs of service provided in the facility is approximately 60 percent of the average per diem charges or costs of similar psychiatric services provided in a general hospital.

(3) (A) When a private facility is accredited by a nationally recognized commission which accredits health care facilities, the department shall review and may approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(B) When a private facility serves county patients, the department shall review and may approve the program aspects only if the facility is federally certified by the Health Care Financing Administration and serves a population mix which includes a proportion of Medi-Cal patients sufficient to project an overall cost savings to the county, and the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(4) When a public facility is federally certified by the Health Care Financing Administration and serves a population mix which includes a proportion of Medi-Cal patients sufficient to project an overall program cost savings with certification, the department shall approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(5) (A) The State Department of Mental Health may set a lower rate for private or public facilities than that required by paragraph (3) or paragraph (4), respectively if so required by the federal Health Care Financing Administration as a condition for the receipt of federal matching funds.

(B) This section does not impose any obligation on any private facility to contract with a county for the provision of services to Medi-Cal beneficiaries, and any contract for that purpose is subject to the agreement of the participating facility.

(6) In using the guidelines specified in this subdivision, the department shall take into account local conditions affecting the costs or charges.

(i) The licensing fees charged for these facilities shall be credited to the State Department of Mental Health for its costs incurred in the review of psychiatric health facility programs, in connection with the licensing of these facilities.

(j) Proposed changes in the standards or regulations affecting health facilities which serve the mentally disordered shall be effected only with the review and coordination of the Health and Welfare Agency.

(k) In psychiatric health facilities where the clinical director is not a physician, a psychiatrist, or if one is temporarily not available, a physician shall be designated who shall direct those medical treatments and services which can only be provided by, or under the direction of, a physician.

(*l*) This section shall become inoperative on July 1, 1997, and as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 754

An act to amend Section 4606 of the Civil Code, and to amend Section 77003 of the Government Code, relating to court-appointed counsel.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 4606 of the Civil Code is amended to read:

4606. (a) In any initial or subsequent proceeding under this part where there is in issue the custody of or visitation with a minor child, the court may, if it determines it would be in the best interests of the minor child, appoint private counsel to represent the interests of the minor child.

(b) Counsel, upon entering an appearance on behalf of a minor pursuant to this section shall continue to represent that minor unless relieved by the court upon the substitution of other counsel by the court or for cause.

(c) The counsel shall be charged with the representation of the child's interests. The counsel has the following duties, unless under the circumstances it is inappropriate to exercise these duties, which include interviewing the child, reviewing the court files and all accessible relevant records available to both parties, and making any further investigations as he or she deems necessary to ascertain facts relevant to the custody or visitation hearings. Counsel may introduce and examine his or her own witnesses, present arguments to the court concerning the child's welfare, and participate further in the proceeding to the degree necessary to adequately represent the child.

(d) Counsel shall have the following rights when ordered by the court: reasonable access to the child with adequate notice; notice of any and all proceedings including any request for examinations affecting the child; access to medical and school records for the child; the right to veto any physical or psychological examination or evaluation, for purposes of the proceeding, which has not been ordered by the court; the right to assert on behalf of the child any privilege for discovery purposes; the right to seek independent psychological or physical examination or evaluation of the child for purposes of the pending proceeding, upon application to the court.

(e) The child's counsel may, upon noticed motion to all parties and the local child protective services agency, request the court to authorize release of relevant reports or files, concerning the child represented by the counsel, of the relevant local child protective services agency. The court shall review the reports or files in camera in order to determine whether they are relevant to the pending action and whether and to what extent they should be released to the

child's counsel. Neither the review by the court nor the release to counsel shall constitute a waiver of the confidentiality of these records and files. Counsel shall not disclose the contents or existence of these files or records to anyone unless otherwise permitted by law.

(f) When the court appoints counsel to represent the minor, counsel shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. Except as provided in subdivision (g), this amount shall be paid by the parties in proportions as the court deems just.

(g) Upon its own motion or that of a party, the court shall determine whether both parties together are financially unable to pay all or a portion of the cost of counsel appointed pursuant to this section, and the portion of the cost of that counsel which the court finds the parties are unable to pay shall be paid by the county. The Judicial Council shall adopt guidelines to assist in determining financial eligibility for county payment of counsel appointed by the court pursuant to this section.

SEC. 2. Section 77003 of the Government Code is amended to read:

77003. As used in this chapter, "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, constables, and sheriffs as the court deems necessary for court operations, court-appointed counsel in juvenile court dependency proceedings, counsel appointed by the court to represent a minor pursuant to Section 4606 of the Civil Code, services and supplies relating to court operations, collective bargaining under the Meyers-Milias-Brown Act with respect to court employees specified in Section 3501.5, 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; 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 as determined by the Department of Finance, 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.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 755

An act relating to rural health facilities.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. The Office of Statewide Health Planning and Development, in consultation with the Small and Rural Hospital Advisory Committee, shall develop and submit to the federal government a grant application on behalf of the State of California which meets the requirements of the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239, Sec. 6003(g)), seeking to have California designated as one of the states to develop rural health care plans and designating hospitals and facilities as Essential Access Community Hospitals (EACH) or as Rural Primary Care Hospitals (RPCH).

Once California is selected, and the grant is received, the Office of Statewide Health Planning and Development shall, to the extent consistent with federal law, designate general acute care hospitals, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, as EACH and RPCH facilities, so as to make those facilities eligible for federal EACH and RPCH funding.

CHAPTER 756

An act to amend Sections 18950, 18953.5, 18955.1, and 18958 of, and to repeal Sections 18950.7, 18954, 18956, 18957, and 18960 of, the Welfare and Institutions Code, relating to child abuse.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 18950 of the Welfare and Institutions Code is amended to read:

18950. The Legislature finds and declares that child abuse is a growing concern in this state, and that current methods of coping with child abuse problems are resulting in family breakups that are both expensive and nonproductive to the state. It is the intent of the Legislature to provide for the establishment of a State Office of Child Abuse Prevention to plan, improve, develop, and carry out programs and activities relating to the prevention, identification and treatment of child abuse and neglect.

SEC. 2. Section 18950.7 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 18953.5 of the Welfare and Institutions Code is amended to read:

18953.5. The Office of Child Abuse Prevention may fund the various programs established pursuant to this chapter, Chapter 12 (commencing with Section 18975), and Chapter 12.5 (commencing with Section 18980) by means of grants rather than contracts. The grants shall not be subject to the review specified in Section 10295 of the Public Contract Code.

SEC. 4. Section 18954 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 18955.1 of the Welfare and Institutions Code is amended to read:

18955.1. It is the intent of the Legislature that the Office of Child Abuse Prevention shall make every attempt to qualify projects implemented pursuant to this chapter for federal funding. To that extent, should any provisions of this chapter prevent federal funding for projects implemented pursuant to this chapter, those provisions of this chapter shall be rendered inoperative.

SEC. 6. Section 18956 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 18957 of the Welfare and Institutions Code is repealed.

SEC. 8. Section 18958 of the Welfare and Institutions Code is amended to read:

18958. The Office of Child Abuse Prevention shall apply for federal funding for the administration of its functions under this chapter. The office shall use these funds to do all of the following:

(a) Provide technical assistance (directly or through grant or contract pursuant to Section 16304 of the Government Code) to public and private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

(b) Compile training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect.

(c) Assist and provide funds for the coordination of child abuse prevention programs.

(d) Develop and establish other innovation programs in child

abuse prevention where the office finds a need for the programs.

(e) Conduct research and collect data relevant to the determination of the effectiveness of child abuse prevention programs.

SEC. 9. Section 18960 of the Welfare and Institutions Code is repealed.

CHAPTER 757

An act to add and repeal Article 6.5 (commencing with Section 6025) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code, relating to pest control, and making an appropriation therefor.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Article 6.5 (commencing with Section 6025) is added to Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code, to read:

Article 6.5. Vertebrate Pest Control Research

6025. The Legislature hereby finds and declares all of the following:

(a) The continued viability of the agricultural economy is of paramount importance to the people of this state.

(b) Vertebrate pests cause an estimated two hundred million dollars ($200,000,000) damage to agricultural crops each year, and without effective controls, the losses and damage could reach one billion dollars ($1,000,000,000) annually.

(c) The use of materials to control vertebrate pests benefits the public health by preventing rodent-borne diseases that could be transmitted, and be injurious, to humans.

(d) County departments of agriculture have historically provided vertebrate pest control materials to the agricultural community.

(e) Recent changes in the federal law require the development of extensive data and the payment of registration fees in order to register these materials, and these requirements are costly. Research studies to develop this data will be required if these valuable control materials are to be maintained.

(f) It is appropriate that the necessary research be funded by an assessment on the vertebrate pest control materials for which these studies are required.

6025.2. For purposes of this article, "vertebrate pest" means any specie of mammal, bird, reptile, amphibian, or fish that causes damage to agricultural, natural, or industrial resources, or to any

other resource, and to the public health and safety.

6025.5. (a) The director shall establish and administer a research program to control vertebrate pests which pose a significant threat to the welfare of the state's agricultural economy and the public.

(b) The specific purposes of the program include all of the following:

(1) The investigation of effective and economical alternative materials for the control of vertebrate pests.

(2) The solicitation and consideration of research proposals for alternative humane methods of control.

(3) The continuation of current vertebrate pest control product registration at the state level until alternative products are developed which prove to be effective and economical.

(4) The funding of research for the development of scientific data to fulfill registration requirements.

(5) Cooperation with the United States Department of Agriculture in funding research programs to maintain, develop, and register vertebrate pest control materials used in this state.

6026. The director shall establish the Vertebrate Pest Control Research Advisory Committee consisting of the following members, appointed by the director, to serve at the pleasure of the director:

(a) One representative of the department.

(b) One representative of the county agricultural commissioners.

(c) Five representatives of the agricultural industry representing affected commodities.

(d) One representative of the University of California.

(e) One representative of the California State University.

(f) One representative of the State Department of Health Services.

(g) One representative of the general public, with consideration given to a person with expertise in animal welfare.

6026.5. On or before December 31 of each year, the committee shall recommend to the director priorities for conducting various vertebrate pest control research projects and the amount of the assessment necessary to carry out those research projects.

6027. There is hereby created the Vertebrate Pest Control Research Account in the Department of Food and Agriculture Fund. Notwithstanding Section 13340 of the Government Code, the money in the account is continuously appropriated to the director for purposes of carrying out this article. Notwithstanding any other provision of law, the moneys in the account shall not be transferred to any other fund or encumbered or expended for any purpose other than as provided in this article.

6027.5. During the 1991 calendar year, each commissioner shall pay to the director a fee not to exceed fifty cents ($0.50) per pound of vertebrate pest control material sold, distributed, or applied by the county for vertebrate pest control purposes. No assessment shall be imposed on the sale or distribution of vertebrate pest control material by a county agricultural commissioner to another

commissioner.

Commencing with the 1992 calendar year, and only upon the recommendation of the Vertebrate Pest Control Research Advisory Committee, the director may set a different level of assessment in the amount necessary to provide revenue for the vertebrate pest control research projects carried out pursuant to this article. However, the assessment shall not exceed one dollar ($1) per pound of vertebrate control material sold, distributed, or applied by the county for vertebrate pest control purposes. To assist the advisory committee in making its recommendations, the department shall submit a progress report to the members of the advisory committee at least 30 days prior to each meeting of the advisory committee. The report shall include, but is not limited to, data on research which has been, or is proposed to be, conducted and statements regarding the necessity for that research. This section does not preclude the department from preparing and distributing additional reports which may be requested by the advisory committee.

6028. The assessment payments required pursuant to Section 6027.5, together with a report of the amount of vertebrate pest control materials sold, distributed, or applied during the previous six-month period, shall be made biannually by each commissioner to the director within one calendar month after June 30 and December 31 of each year.

6029. This article 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.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 758

An act to amend Sections 19150, 19356.7, 19700, 19700.1, 19702, 19704, 19705, 19706, 19707, 19708, and 19709 of the Welfare and Institutions Code, relating to rehabilitation.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 19150 of the Welfare and Institutions Code is amended to read:

19150. (a) The term "vocational rehabilitation services" means the following services and goods:

(1) Evaluation, including diagnostic and related services, incidental to the determination of eligibility for and the nature and scope of services to be provided.

(2) Counseling, guidance, and placement services for persons with disabilities, including followup services to assist those individuals in maintaining their employment.

(3) Training services for persons with disabilities, which shall include personal and vocational adjustment, books, and other training materials.

(4) Reader services for the blind and interpreter services for the deaf.

(5) Recruitment and training services for persons with disabilities to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment.

(6) Physical restoration services, including, but not limited to the following:

(A) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial barrier to employment, but is of such a nature that the correction or modification may reasonably be expected to eliminate or substantially reduce the disability within a reasonable length of time.

(B) Necessary hospitalization in connection with surgery or treatment.

(C) Prosthetic and orthotic devices.

(D) Eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist.

(7) Maintenance, not exceeding the estimated cost of subsistence, during rehabilitation.

(8) Occupational licenses, tools, equipment, and initial stocks and supplies.

(9) In the case of any type of small business operated by the severely disabled, the operation of which can be improved by

management services and supervision provided by the department, the provision of those services and supervision, alone or together with the acquisition by the department of vending stands or other equipment and initial stocks and supplies.

(10) The provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the rehabilitation plan of any one person with disabilities.

(11) Transportation in connection with the rendering of any other vocational rehabilitation service.

(12) Any other goods and services necessary to render a person with disabilities employable.

(13) Services to the families of persons with disabilities when those services will contribute substantially to the rehabilitation of those individuals.

(b) For the purposes of subdivision (a), full consideration of eligibility for any similar benefit shall be utilized to the extent permitted by federal law.

SEC. 2. Section 19356.7 of the Welfare and Institutions Code is amended to read:

19356.7. (a) Proposals for funding of supported employment programs and components by the Habilitation Services Program shall be submitted to the Habilitation Services Program and shall contain sufficient information to enable the Habilitation Services Program to act on the proposal under this section.

(b) Provided that sufficient funding is available to finance services by supported employment programs and components, the Habilitation Services Program may approve or disapprove proposals based on all of the following criteria:

(1) The need for a supported employment program or component.

(2) The capacity of the program to deliver supported employment services effectively.

(3) The ability of the program to comply with accreditation and certification requirements of the Habilitation Services Program where applicable.

(4) A profile of an average client in the program or component, showing the planned progress toward self-reliance as an employee, measured, as appropriate, in terms of decreasing support services.

(5) The ability of the program to achieve integrated substantial paid work on the average for clients served.

(c) The Habilitation Services Program may purchase supported employment services at the rates authorized in Section 19356.6 only from supported employment programs or components approved under this section.

(d) For purposes of evaluating the effectiveness of the entire program, and individual supported employment programs or components, the Habilitation Services Program may monitor supported employment programs or components to determine

whether the performance agreed upon in the approved proposal is being achieved. When the performance of a supported employment program or component does not comply with the criteria according to which it was approved for funding pursuant to subdivision (b), the Habilitation Services Program may establish prospective performance criteria for the program or component, with which the program or component shall comply as a condition of continued funding.

(e) The department may adopt the regulations it deems necessary to implement Sections 19352, 19356.6, and this section.

(f) This section shall become inoperative on October 1, 1992, and, as of January 1, 1993, is repealed unless a later enacted statute which becomes effective on or before January 1, 1993, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2.5. Section 19700 of the Welfare and Institutions Code is amended to read:

19700. (a) There is in the department a Rehabilitation Appeals Board consisting of seven members, one of whom shall be designated chairperson. The chairperson and the members of the board shall be appointed by the Governor with the advice and consent of the Senate for terms of four years. The members of the board shall be selected for their interest and leadership in activities to encourage and enable the disabled and otherwise disadvantaged to participate fully in the economic and social life of the community.

(b) A majority of the members of the board shall be disabled persons who have overcome their disabilities, including those who have done so with the assistance of public agencies, and who are independently self-supporting in the regular businesses, professions, and occupations of the community.

(c) No member of the board shall have a personal or financial interest that would affect his or her objectivity in matters before the board.

SEC. 3. Section 19700.1 of the Welfare and Institutions Code is amended to read:

19700.1. (a) As used in this chapter "client" means any person applying for or receiving services or support from the department.

(b) "Director" means the Director of the State Department of Rehabilitation.

(c) "Appellant" means an applicant or client who has filed an oral or written request for an administrative review or a written request for a fair hearing.

SEC. 4. Section 19702 of the Welfare and Institutions Code is amended to read:

19702. (a) The members of the board shall meet whenever required to hear appeals which have been filed with the board. Special meetings shall be approved by the director and called by the chairperson, who shall notify the other members of the time and place of such meetings.

(b) The director, in consultation with the board, shall determine

and provide necessary staff support and assistance for the board in conducting fair hearings and issuing proposed decisions to the director.

(c) Three members of the board shall constitute a quorum for the performance of any duty or the exercise of any power of the board.

SEC. 5. Section 19704 of the Welfare and Institutions Code is amended to read:

19704. If any applicant for, or client of, the department is dissatisfied with any action of the department relating to his or her application or receipt of services, or if any person who desires to apply for that assistance is refused the opportunity to submit a signed application therefor and is dissatisfied with that refusal, he or she shall, upon filing a request with the department within one year after the decision or action complained of, have a right to an administrative review and redetermination by a member or members of the supervisory staff of the department and a formal fair hearing before the Rehabilitation Appeals Board. An administrative review shall not delay a hearing before the board if that hearing is requested. The review shall be held and the decision of the reviewer shall be rendered to the applicant or client within 15 days of the date the request was filed. A fair hearing shall be held within 45 days of the date a written request is received by the board.

SEC. 6. Section 19705 of the Welfare and Institutions Code is amended to read:

19705. (a) The department shall set the hearing specified in Section 19704 before the Rehabilitation Appeals Board and shall give all parties concerned written notice of the time and place of the hearing.

(b) At the hearing, the appellant may appear in person, may be accompanied by a representative of his or her own choosing, or may designate a representative to appear on his or her behalf. The appellant may submit the matter on the written record and waive the right to appear at the hearing.

(c) Upon a joint request of the parties or upon a showing of good cause by either party, the board may grant extensions of time or continuances of the hearing.

SEC. 7. Section 19706 of the Welfare and Institutions Code is amended to read:

19706. In each appeal to the Rehabilitation Appeals Board, the written notification required by Section 19703, and, if applicable, the decision of the reviewer required pursuant to Section 19704, shall form part of the record. The board shall hear all relevant evidence and shall consider each case on the basis of the laws and regulations controlling the department and it shall render its proposed decision promptly and in writing.

SEC. 8. Section 19707 of the Welfare and Institutions Code is amended to read:

19707. (a) Three or more board members may hear any appeal before the board.

(b) A proposed decision approved by a majority of those board members present at the hearing shall be forwarded to the director for final decision.

(c) At the time the proposed decision is forwarded to the director, copies shall be sent by certified mail to the appellant, the appellant's authorized representative, and the department representatives.

(d) If the director chooses to review the proposed decision, he or she shall, within 20 days from receipt of the proposed decision, notify all parties of the intent to review the proposed decision in whole or in part. Failure to provide notice shall be deemed an affirmation of the proposed decision.

(e) The appellant shall be provided an opportunity to submit additional evidence and information relevant to a final decision.

(f) The final decision shall be made in writing and shall include a full report of the findings and the grounds for the decision. Only the director may make the final decision.

(g) The department shall mail a copy of the final decision promptly to all parties. The copies to the appellant and the appellant's authorized representative shall be sent by certified mail.

SEC. 9. Section 19708 of the Welfare and Institutions Code is amended to read:

19708. (a) Information in the appellant's case record shall, upon request and proper identification, be disclosed to the person or his or her authorized representative. Medical, psychological, or other information which the department believes may be harmful to the person shall not be released directly to that person, but shall be provided through his or her authorized representative, including, but not limited to, a physician or a licensed or certified psychologist. All records made or kept by any public officer or agency in connection with the administration of any vocational rehabilitation program shall be open for inspection by the applicant or client to which the information relates and by any other person authorized in writing by the applicant or client. The written authorization shall be dated and signed by the applicant or client and shall expire one year from the date of execution.

(b) In the event of any hearing under the provisions of this chapter, the authorized representative of the appellant shall be entitled to inspect the case record relating to the appellant prior to, as well as during, the hearing.

SEC. 10. Section 19709 of the Welfare and Institutions Code is amended to read:

19709. (a) The appellant, within six months after receiving notice of the director's final decision, may file a petition with the superior court, under the provisions of Section 1094.5 of the Code of Civil Procedure, praying for a review of the entire proceedings in the matter, upon questions of law involved in the case. The review, if granted, shall be the exclusive remedy available to the appellant for review of the director's final decision. The department shall be the sole respondent in the proceedings.

(b) No filing fee shall be required for the filing of a petition pursuant to this section. Any such petition to the superior court shall be entitled to a preference in setting a date for hearing on the petition. No bond shall be required in the case of any petition for review, nor in any appeal therefrom. The appellant shall be entitled to reasonable attorney's fees and costs, if he or she obtains a decision in his or her favor.

CHAPTER 759

An act to add Section 29535.2 to the Government Code, relating to local transportation commissions.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 29535.2 is added to the Government Code, to read:

29535.2. (a) Notwithstanding Section 29535, for the County of Nevada, the membership of the local transportation commission shall be increased by one. The member provided for by this section shall represent the eastern Nevada County area including, but not limited to, the Truckee area, and shall be appointed by the board of supervisors.

(b) The provisions of Section 29535 regarding the appointment of alternate members apply to the appointment under this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 760

An act to amend Section 14572 of the Public Resources Code, relating to beverage containers.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 14572 of the Public Resources Code is amended to read:

14572. (a) A certified recycling center shall accept from any consumer or dropoff or collection program any empty beverage container, and shall pay to the consumer or dropoff or collection program the refund value of the beverage container. The center may pay the refund value based on the weight of returned containers.

(b) Any recycling center, nonprofit dropoff program, or processor which was certified by the department as of June 30, 1988, which was in existence on January 1, 1986, and which refused, as of January 1, 1986, to accept at a particular location a certain type of empty beverage container may continue to refuse to accept at the location the type or types of empty beverage containers that the recycling center, nonprofit dropoff program, or processor refused to accept as of January 1, 1986. Any certified recycling center which refuses, pursuant to this subdivision, to accept a certain type or types of empty beverage containers is not eligible to receive convenience incentive payments unless the center agrees to accept all types of empty beverage containers. This subdivision does not preclude the certified recycling center from receiving a convenience incentive payment for beverage containers redeemed at locations which do accept all types of containers. Any recycling center which is certified after June 30, 1988, shall accept all beverage container types after January 1, 1989.

(c) On January 1, 1990, the department shall terminate any authorizations for retention of the redemption bonus made before January 1, 1990, pursuant to any other provision of law.

(d) Only a certified recycling center may pay the refund value to consumers, or dropoff or collection programs. No person shall pay a noncertified recycling center an amount which exceeds the scrap value for aluminum, as listed in the American Metals Market publication, or an amount for glass and plastic which exceeds the amount identified as the portion of the processing fee which are the costs for the recycler, as specified, in paragraphs (1) and (2) of subdivision (a) of Section 14575, as determined by the department.

(e) This section does not affect curbside programs under contract with cities or counties.

CHAPTER 761

An act to amend Sections 1812.508 and 1812.533 of the Civil Code, and to amend Sections 1726 and 1726.1 of the Health and Safety Code, relating to home health agencies.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 1812.508 of the Civil Code is amended to read:

1812.508. (a) No employment agency shall make, or cause to be made, any false, misleading, or deceptive advertisements or representations concerning the services that the agency will provide to jobseekers.

(b) (1) No employment agency shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisements.

(2) All advertisements of an employment agency shall contain the correct name of the employment agency and one of the following:

(A) The street address of the agency's place of business.

(B) The correct telephone number of the agency at its place of business.

(3) Every employment agency, except a nurses' registry shall use, as part of its name, either the designation "agency" or "personnel service."

(4) No employment agency shall give any false information or make any false promises or representations concerning an engagement or employment to any jobseeker who registers or applies for an engagement or employment or help.

(5) No employment agency shall, by its name, advertisement, or any other representation, represent itself to be a home health agency, as defined by subdivision (a) of Section 1727 of the Health and Safety Code, or to perform the services of a home health agency. An employment agency shall provide a written disclosure to each individual receiving nursing services in his or her place of residence stating that it does not perform the services of a home health agency and clearly describing that it is an employment agency only and that any complaints against personnel providing nursing services who are neither licensed nor certified shall be submitted to the local district attorney, complaints against certified nursing assistants and certified home health aides providing nursing services shall be submitted to the local district attorney and the State Department of Health Services, and complaints against licensed personnel providing nursing services shall be submitted to the local district attorney and the Department of Consumer Affairs. The address and telephone number of each agency and board to which complaints are required

to be submitted shall be provided by the employment agency to all patients prior to the time they are under the care of any nursing services personnel.

(6) Any person may refer complaints concerning employment agencies to the proper law enforcement agency for action.

(c) (1) Where an employment agency job advertisement includes a description of the placement fee associated with the advertised job, the employment agency shall describe the placement fee in a manner which either clearly indicates whether or not a jobseeker shall be responsible for the placement fee or in accordance with the following terms and provisions:

(A) "FEE" means the jobseeker pays the entire placement fee.

(B) "NO FEE" means the jobseeker pays no portion of the placement fee.

(2) Where "NO FEE" jobs are advertised and the agency also administers placement for "FEE" jobs, the advertisement shall state "ALSO FEE JOBS" in type of equal size, prominence, and boldness as "NO FEE" notations.

(3) A group job advertisement which includes a description of the placement fee shall describe the placement fee either separately for each job, or by use of the proper term as a heading under which all applicable jobs shall be listed. All those headings shall be in type and of the same size, prominence, and boldness.

(d) Special requirements not usually associated with a job shall be specified in any advertisement. When the location of the position advertised is more than 50 miles from the employment agency office responsible for the advertisement, it shall state either the location or that the job is "nonlocal." Special benefits of the job, if advertised, shall be specifically described and substitute terms or symbols such as "extras" or "+" shall not be sufficient.

(e) An advertised salary shall be based upon the starting salary contained in the job order. An advertised range of starting salaries shall be specified by preceding the minimum salary and maximum salary by the terms "from" and "to" respectively. When the job order contains only the maximum amount of a salary range, that advertised salary shall be preceded by the word "to." If a maximum salary is dependent upon the jobseeker's experience, the advertised salary may be described by listing the minimum salary and the term "up Depending on Experience" or "up D.O.E." The words "open" and "negotiable" or words or symbols of like import shall not be used as a substitute for the salary. If an advertised salary is based in whole or in part on commissions, that fact shall be indicated in the advertisement.

(f) All employment agencies shall maintain a record of all advertised jobs, correlated to show the date and the publication in which the advertisement appeared and the job order number of each job advertised, retrospectively for a period of one year.

SEC. 2. Section 1812.533 of the Civil Code is amended to read:

1812.533. (a) No nurses' registry shall make, or cause to be made,

any false, misleading, or deceptive advertisements or representations concerning the services that registry will provide to nurses.

(b) (1) No nurses' registry shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisements.

(2) All advertisements of a nurses' registry shall contain the correct name of the nurses' registry and one of the following:

(A) The street address of the registry's place of business.

(B) The correct telephone number of the registry at its place of business.

(3) No nurses' registry shall give any false information or make any false promises or representations concerning an assignment or employment to any nurse who registers or applies for an assignment or employment.

(4) No nurses' registry shall, by its name, advertisement, or any other representation, represent itself to be a home health agency, as defined by subdivision (a) of Section 1727 of the Health and Safety Code, or to perform the services of a home health agency. A nurses' registry shall provide a written disclosure to each individual receiving nursing services, as defined in subdivision (a) of Section 1812.524, in his or her place of residence stating that it does not perform the services of a home health agency and clearly describing that it is a nurses' registry only and that any complaints against licensed personnel providing a nursing service shall be brought to the local district attorney and the Department of Consumer Affairs. The address and telephone number of each agency and board to which complaints are required to be submitted shall be provided to all patients prior to the time they are under the care of any nursing services personnel.

(5) Any person may refer complaints concerning nurses' registries to the proper law enforcement agency for action.

(c) Every nurses' registry shall maintain a record of all advertisements, correlated to show the date and the publication in which the advertisement appeared, retrospectively for a period of one year.

SEC. 3. Section 1726 of the Health and Safety Code is amended to read:

1726. No private or public organization, including, but not limited to, any partnership, corporation, political subdivision of the state, or other governmental agency within the state, shall provide, or arrange for the provision of, skilled nursing services in the home in this state without first obtaining a home health agency license.

In establishing a system of licensing for home health agencies, it is the purpose of the Legislature to distinguish between the functions of a home health agency and the functions of an employment agency or a licensed nurses' registry pursuant to Title 2.91 (commencing with Section 1812.500) of Part 4 of Division 3 of the Civil Code. It is not the intention of the Legislature to require that an employment

agency or a licensed nurses' registry performing its functions as specified in Title 2.91 (commencing with Section 1812.500) of Part 4 of Division 3 of the Civil Code secure a home health agency license, unless it is performing the functions of a home health agency, as defined in this chapter.

It is not the intent of the Legislature to require a hospice to secure a home health agency license unless it is performing the functions of a home health agency.

SEC. 3.5. Section 1726 of the Health and Safety Code is amended to read:

1726. No private or public organization, including, but not limited to, any partnership, corporation, political subdivision of the state, or other governmental agency within the state, shall provide, or arrange for the provision of, skilled nursing services in the home in this state without first obtaining a home health agency license.

In establishing a system of licensing for home health agencies, it is the purpose of the Legislature to distinguish between the functions of a home health agency and the functions of an employment agency or a licensed nurses' registry pursuant to Title 2.91 (commencing with Section 1812.500) of Part 4 of Division 3 of the Civil Code. It is not the intention of the Legislature to require that an employment agency or a licensed nurses' registry performing its functions as specified in Title 2.91 (commencing with Section 1812.500) of Part 4 of Division 3 of the Civil Code secure a home health agency license unless it is performing the functions of a home health agency, as defined in this chapter.

It is not the intent of the Legislature to require a hospice to secure a home health agency or home hospice agency license unless it is performing the functions of a home health agency or home hospice agency.

SEC. 4. Section 1726.1 of the Health and Safety Code is amended to read:

1726.1. (a) Any licensed pharmacy engaged in providing, pursuant to the order of a physician and surgeon, parenteral or enteral therapies administered by a licensed registered nurse employed, or whose services who are arranged for, by the pharmacy, shall be exempt from the requirements of this chapter until January 1, 1992, or the effective date of regulations adopted by the state department pursuant to this chapter for these services, whichever occurs first.

(b) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute chaptered prior to January 1, 1992, deletes or extends that date.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 1726 of the Health and Safety Code proposed by both this bill and SB 2622. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1991, (2) each bill amends Section 1726 of the Health and Safety Code, and (3) this bill is enacted after SB 2622, in which case Section 3 of this bill shall not

become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 762

An act to add Section 52301.3 to the Education Code, relating to vocational education.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. The Legislature finds and declares that the Kern Union High School District has the third highest average daily attendance of any high school district in the state, contains an area of more than 3,500 square miles, and serves 26 feeder school districts. Accordingly, it is the intent of the Legislature to authorize the State Board of Education, which has previously granted waivers to that district to operate a single district regional occupational center or program, to grant permanent status to the Kern Union High School District for that purpose.

SEC. 2. Section 52301.3 is added to the Education Code, to read:

52301.3. Notwithstanding subdivision (d) of Section 52301, the State Board of Education may grant permanent status to the Kern Union High School District to operate a single district regional occupational center or program, if that status is requested in writing by the county superintendent of schools of Kern County and the governing board of the Kern Union High School District.

SEC. 3. Due to the unique circumstances specified in Section 1 of this act concerning the Kern Union High 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 763

An act to amend Section 6012.6 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 6012.6 of the Revenue and Taxation Code is amended to read:

6012.6. (a) For the purposes of this part, "gross receipts" from the sale of a factory-built school building, and the "sales price" of a factory-built school building, sold or stored, used, or otherwise consumed in this state shall be 40 percent of the sales price of the factory-built school building to the consumer.

(b) For purposes of this section, "factory-built school building" means any building designed in compliance with state laws for school construction and approved by the structural safety section in the office of the State Architect, which is either wholly manufactured or is in substantial part manufactured at an offsite location, to be assembled, erected, or installed on a site owned or leased by a school district or a community college district.

(c) For purposes of this section, the place of sale or purchase of a factory-built school building is the place of business of the retailer of the factory-built school building as provided in Section 7205, regardless of whether sale of the building includes installation or whether the building is placed upon a permanent foundation.

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 the 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 764

An act to amend Sections 13100, 13101, and 13103 of, and to add Section 13104 to, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 13100 of the Fish and Game Code is

amended to read:

13100. (a) The amounts paid to and retained in the county treasury pursuant to Section 13003 shall be deposited in a county fish and wildlife propagation fund and expended for the protection, conservation, propagation, and preservation of fish and wildlife, under the direction of the board of supervisors, pursuant to this chapter.

SEC. 2. Section 13101 of the Fish and Game Code is amended to read:

13101. (a) The board of supervisors of any county may enter into a written agreement with the board of supervisors of any other county for the expenditure of any funds deposited in its fish and wildlife propagation fund pursuant to Section 13100 for any purpose authorized by Section 13103 in either of the counties for the joint benefit of both as the judgment of the boards of supervisors may direct. The purchase of real property necessary for that purpose is lawful and title thereto shall be taken in the joint names of each county which contributes funds therefor. The property may be deeded to the state upon the express condition that it shall be employed for the purposes of this chapter within the counties.

(b) The board of supervisors of any county may enter into a written agreement with the department for the expenditure of any funds deposited in its fish and wildlife propagation fund pursuant to Section 13100 for any purpose authorized by Section 13103.

SEC. 3. Section 13103 of the Fish and Game Code is amended to read:

13103. Expenditures from the fish and wildlife propagation fund of any county may be made only for the following purposes:

(a) Youth education relating to the scientific principles of fish and wildlife conservation, consisting of supervised formal instruction carried out pursuant to a planned curriculum, including aids to education such as literature, audio and video recordings, and training models.

(b) Temporary emergency treatment and care of injured or orphaned wildlife.

(c) Temporary treatment and care of wildlife confiscated by the department as evidence.

(d) Breeding, raising, purchasing, or releasing fish or animals which are to be released onto property or into waters of the state or the federal government.

(e) Improvement of fish and wildlife habitat, including, but not limited to, construction of fish screens, weirs, and ladders; drainage or other watershed improvements; gravel and rock removal or placement; construction of irrigation and water distribution systems; earthwork and grading; fencing; planting trees and other vegetation management; and removal of barriers to the migration of fish and wildlife.

(f) Construction, maintenance, and operation of public hatchery facilities, including raceways, water systems, and bird exclosures.

(g) Purchase of materials, supplies, or equipment for the department's ownership and use in the normal performance of the department's responsibilities.

(h) Predator control actions for the benefit of fish or wildlife following certification in writing by the department that the proposed actions will significantly benefit a particular wildlife species.

(i) Removing and disposing of carcasses of dead seals, sea lions, and other marine mammals found on ocean beach areas in the county.

(j) Scientific fish and wildlife research conducted by institutions of higher learning or governmental agencies, if approved by the department.

(k) Reasonable administrative costs for secretarial service, travel, and postage by the county fish and wildlife commission when authorized by the county board of supervisors. For purposes of this subdivision, "reasonable cost" means an amount which does not exceed 3 percent annually of the money in the county's fish and game propagation fund.

SEC. 4. Section 13104 is added to the Fish and Game Code, to read:

13104. The department may audit, or require the county to audit, expenditures by the county from its fish and wildlife propagation fund in order to determine compliance with this chapter.

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 one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 765

An act to amend Sections 1797.3 and 1797.5 of the Civil Code, to amend Sections 18010, 18035, 18035.1, 18035.3, 18075.6, 18081, 18081.5, 18100.5, 18210.5, 18211, 18215.5, 18218, and 18218.5 of the Health and Safety Code, relating to housing.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 1797.3 of the Civil Code is amended to read:

1797.3. The mobilehome/manufactured home warranty from the manufacturer or dealer to the buyer shall be set forth in a separate written document that reprints all of the provisions of this chapter and shall be delivered to the buyer by the dealer at the time the contract of sale is signed, and shall contain, but is not limited to, the following terms:

(a) That the mobilehome or manufactured home is free from any substantial defects in materials or workmanship.

(b) That the manufacturer or dealer or both shall take appropriate corrective action at the site of the mobilehome or manufactured home in instances of substantial defects in materials or workmanship which become evident within one year from the date of delivery of the mobilehome or manufactured home to the buyer, provided the buyer or his or her transferee gives written notice of those defects to the manufacturer or dealer at their business address not later than one year and 10 days after date of delivery.

(c) That the manufacturer and dealer shall be jointly and severally liable to the buyer for the fulfillment of the terms of warranty, and that the buyer may notify either one or both of the need for appropriate corrective action in instances of substantial defects in materials or workmanship.

(d) That the address and the phone number of where to mail or deliver written notices of defects shall be set forth in the document.

(e) That the one-year warranty period applies to the plumbing, heating, electrical, cooling, fire safety, and structural systems and all appliances of the mobilehome or manufactured home.

(f) That while the manufacturers of any or all appliances may also issue their own warranties, the primary responsibility for appropriate corrective action under the warranty rests with the dealer and manufacturer, and the buyer should report all complaints to the dealer and manufacturer initially.

(g) That if corrective action taken by the manufacturer or dealer fails to eliminate a substantial defect, then the material, system, appliance, or component shall be replaced in kind. As used in this subdivision, "replaced in kind" means (1) replacement with the identical material, system, appliance, or component, and, if not

available (2) replacement with a comparable or better material, system, appliance, or component.

SEC. 2. Section 1797.5 of the Civil Code is amended to read:

1797.5. Every dealer shall display a copy of all of the warranty provisions required by this chapter. The copy of the warranty provisions required by this chapter shall be posted in each area where purchase orders and conditional sales contracts are written.

SEC. 3. Section 18010 of the Health and Safety Code is amended to read:

18010. "Recreational vehicle" means either of the following:

(a) A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy, which meets all of the following criteria:

(1) It contains less than 320 square feet of internal living room area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.

(2) It contains 400 square feet or less of gross area measured at maximum horizontal projections.

(3) It is built on a single chassis.

(4) It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.

(b) A park trailer designed for human habitation for recreational or seasonal use only, which meets all of the following criteria:

(1) It contains 400 square feet or less of gross floor area measured at the maximum horizontal projections. However, it may not exceed 12 feet in width or 40 feet in length in the traveling mode.

(2) It is built on a single chassis.

(3) It may only be transported upon the public highways with a permit.

SEC. 3.5. Section 18035 of the Health and Safety Code is amended to read:

18035. (a) For every transaction by or through a dealer to sell or lease with the option to buy 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 escrowholder.

(b) For every transaction by or through a dealer to sell or lease with the option to buy a new manufactured home or mobilehome subject to registration under this part, 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 transaction by or through a dealer to sell or lease with the option to buy a used manufactured home or mobilehome subject to registration under this part, 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 transaction by or through a dealer to sell or lease with the option to buy a used manufactured home or mobilehome subject to registration under this part:

(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 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 title 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 title 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 transaction by or through a dealer to sell or lease with the option to buy 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 transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome that is subject to inspection pursuant to Section 18613, and for which it is stated, on the face of the document certifying or

approving occupancy or installation, that the issuance of the document is conditioned upon the payment of a fee, charge, dedication, or other requirement levied pursuant to Section 53080 of the Government Code, the escrow instructions shall provide that the payment of that fee, charge, dedication, or other requirement be made to the appropriate school district upon the close of escrow.

(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 the 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. 4. Section 18035.1 of the Health and Safety Code is amended to read:

18035.1. As a part of the documents executed for every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome, the dealer and purchaser shall sign a receipt for deposit, a copy of which shall be provided to the purchaser and a copy shall be retained by the dealer for not less than three years. It shall state at least the following in type not less than 6-point type size:

(a) A statement that the purchaser shall receive a copy of the purchase contract and receipt for deposit.

(b) A statement that all portions of the purchase documents and receipt for deposit shall be completed prior to obtaining the purchaser's signature.

(c) A statement of the specific amounts of the deposit, downpayment, or other category of funds required to be placed in escrow prior to closing, and a warning that the deposit may be withheld in escrow in case of a dispute between the purchaser and the dealer.

(d) A statement that the amounts of the deposit and downpayment shall be agreed upon by the purchaser and dealer and shall have been entered on the purchase documents and receipt of deposit prior to the purchaser's signing.

(e) Sections 18035, 18035.1, and 18035.3 of this code and Section 1797.3 of the Civil Code reprinted in their entirety.

(f) A statement that any oral promises or commitments that have been made are not binding unless they appear in writing on the purchase documents.

(g) A warning that a warranty document complying with Section 1797.3 of the Civil Code shall be provided to the purchaser of a new manufactured home or mobilehome immediately after signing the purchase documents.

(h) A statement that the terms and duration of any other warranty, not required by law, offered by the dealer shall be in writing.

(i) A statement that, if the purchaser has any complaints with respect to sales practices, delivery, warranty, or other matters related to the manufactured home or mobilehome, he or she may seek administrative relief from the department or legal relief in a court of competent jurisdiction.

(j) A statement that the sale will not be complete until the escrow

for the sale closes.

For the sale of a manufactured home or mobilehome not subject to registration by the department, the dealer shall provide a statement of fact containing the information specified in subdivisions (f), (g), (h), (i), and (j) as part of the purchase documents.

Where the sale of a new or used manufactured home or mobilehome subject to registration under this part does not involve a dealer, the department, by regulation, may require the seller and buyer to execute a receipt for deposit containing whatever information of the nature described in this section, the department deems appropriate.

SEC. 5. Section 18035.3 of the Health and Safety Code is amended to read:

18035.3. (a) For every sale by a dealer of a new or used manufactured home or mobilehome, either the purchase order, conditional sale contract, or other document evidencing the purchase thereof, or any attachment to such a purchase document signed and dated by the purchaser, shall contain the following:

(1) A description of the manufactured home or mobilehome, a description and the cash price of each accessory, structure, or service included with the purchase, and the total cash price for the purchase. The statement shall also state whether the purchase price includes or excludes the towbar, wheels, wheel hubs, tires, and axles and, if they are not included in the purchase price, the price of each shall be listed.

(2) The amount, if any, charged by the dealer for documentary preparation and, if a documentary preparation charge is imposed, a notice advising the purchaser that the charge is not a governmental fee.

(3) A notice in type no smaller than 8-point that complaints concerning the purchase shall be referred to the dealer and, if the complaint is not resolved, may be referred to the Department of Housing and Community Development, Division of Codes and Standards, Occupational Licensing, Post Office Box 31, Sacramento, California, 95801 (telephone number (800) 952-5275).

(4) A notice, in at least 10-point bold type reading as follows:

(A) Do NOT sign the purchase agreement before you read it or if it contains any blank spaces to be filled in.

(B) You are entitled to a completely filled-in copy of that agreement and, if purchasing a manufactured home or mobilehome covered by a warranty, a copy of the warranty.

(5) The name, business address, and contractor's license number of the licensed contractor whom the dealer certifies as performing the installation of the manufactured home or mobilehome pursuant to subdivision (c) of Section 7027 of the Business and Professions Code.

The disclosures required by this subdivision need not be contained in the same document.

(b) A failure to disclose pursuant to this section shall not be the

basis for rescission of a conditional sale contract.

(c) Notwithstanding any other provision of this part to the contrary, a failure to provide the disclosures specified in paragraph (5) of subdivision (a) is a ground for disciplinary action and not a criminal offense.

SEC. 6. Section 18075.6 of the Health and Safety Code is amended to read:

18075.6. Unless installed on a foundation system pursuant to Section 18551, any manufactured home, mobilehome, or commercial coach used as an office at a manufacturer's, distributor's, or dealer's established place of business is subject to registration by the department and shall be reported pursuant to Section 18080.5.

SEC. 7. Section 18081 of the Health and Safety Code is amended to read:

18081. (a) Any person may request, and the department shall furnish, information regarding the current registration and title status of a manufactured home, mobilehome, commercial coach, truck camper, or floating home. The department shall provide forms for these requests, shall establish a standard format for providing the information, and may charge fees to pay the cost of furnishing this information.

(b) Upon receipt of a properly executed request for information and the payment of prescribed fees, the department shall provide the information within five working days by first-class mail to the address indicated on the request. The department may adopt procedures for providing the information by electronic facsimile in addition to mailing that information.

(c) Notwithstanding subdivisions (a) and (b), the home address of the registered owner appearing in the information on current registration and title status maintained by the department is confidential if the owner requests confidentiality of that information, and shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(d) The owner requesting confidentiality of his or her home address shall provide the department with a mailing address which is not confidential, which will be open to public inspection, and which may be used for mailings by the department. The owner requesting confidentiality shall declare to the department, under penalty of perjury, that the address provided is a valid, existing and accurate mailing address and shall consent to receive service of process pursuant to subdivision (b) of Section 415.20 and subdivision (a) of Section 415.30 and Section 416.90 of the Code of Civil Procedure at the address.

SEC. 8. Section 18081.5 of the Health and Safety Code is amended to read:

18081.5. The transferee of a manufactured home, mobilehome, or

floating home subject to local property taxation shall report the change in ownership information to the assessor in the county where the manufactured home, mobilehome, or floating home is sited, as provided in Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, unless it is reported pursuant to subdivision (d) of Section 18080.5.

SEC. 9. Section 18100.5 of the Health and Safety Code is amended to read:

18100.5. (a) If the title or interest of a registered owner, legal owner, junior lienholder in a manufactured home, mobilehome, commercial coach, or truck camper, or floating home for which an original registration under this part has been obtained is transferred to another person, or, if all outstanding secured obligations previously held by a legal owner registered on the original or a subsequent registration or by a junior lienholder are satisfied and the person no longer has any obligation to extend credit, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, truck camper, or floating home, or, if a security interest is taken in a manufactured home, mobilehome, commercial coach, truck camper, or floating home after the permanent title record has been established, the department shall be notified within 20 days and shall act as follows:

(1) If the title or interest of a registered owner or legal owner is being transferred, the transferor and the transferee of the title or interest shall execute in the manner prescribed by the department the certificate of title for the manufactured home, mobilehome, commercial coach, truck camper, or floating home. If the transfer is made by a registered owner and the transferee is to assume the underlying indebtedness secured by the manufactured home, mobilehome, commercial coach, truck camper, or floating home and owed to a legal owner, the legal owner shall state on the certificate of title that legal title and interest are to be retained. The certificate of title along with all other supporting documents shall be fowarded to the department with appropriate fees. The department shall appropriately amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, forward a new certificate of title reflecting the change to the permanent title record to the legal owner by first-class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record. If there is no legal owner, the new certificate of title and amended registration card shall be forwarded to the registered owner.

(2) If the interest of a junior lienholder is being transferred, the transferor and the transferee shall execute in a manner prescribed by the department the registration card, and the card so executed shall be forwarded to the department with appropriate fees. The department shall appropriately amend the permanent title record and forward an amended registration card reflecting the change to

the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(3) If a creditor acquires a security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home after the permanent title record has been established, the department shall amend the permanent title record to reflect the interest as that of a legal owner or as that of a junior lienholder, as appropriate. If the permanent title record already reflects the interest of one or more junior lienholders, the creditor then perfecting its interest pursuant to this section shall be designated as the most junior lienholder.

(4) If a legal owner no longer holds an outstanding obligation or a commitment to make advances, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, or truck camper, or floating home, the legal owner shall indicate its release of lien by appropriately signing the certificate of title for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and forward the certificate of title to the department with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, commercial coach, truck camper, or floating home, deliver a new certificate of title reflecting the change to the permanent title record to the new legal owner, if any, by first-class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the registration card. For purposes of this paragraph, the following person shall be designated as the new legal owner:

(A) The junior lienholder, if any.

(B) If there is more than one junior lienholder, the junior lienholder whose statement of lien was designated as the most senior junior lienholder on the permanent title record shall be the legal owner.

(5) If a junior lienholder no longer holds an outstanding obligation or a commitment to make advances, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, truck camper, or floating home, the junior lienholder shall forward the properly executed and released junior lienholder registration card to the department with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(b) (1) Notwithstanding subdivision (d) of this section and subdivisions (c) and (e) of Section 18080.7, for the 120-day period beginning upon the receipt by the department of the notice of escrow and appropriate fee provided by paragraph (2) of subdivision

(d) of Section 18035, or until the escrow is canceled or until the escrow closes and the resulting transfers of ownership interests and transfers or creation of legal owner and junior lienholder interests are acknowledged by the department as amendments to the permanent title record of the manufactured home, mobilehome, truck camper, or floating home, whichever is earlier, the department, except at its sole discretion, shall impose a moratorium on all of the following:

(A) On any other amendments to the permanent title record of the manufactured home, mobilehome, truck camper, or floating home for the purpose of transferring any ownership interest or transferring or creating any security interest in the manufactured home or mobilehome.

(B) On issuing any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card regarding the manufactured home, mobilehome, or floating home.

(C) On subsequent notices of escrow openings.

(2) The department shall, upon receipt of the notice of escrow and the appropriate fee, forward to the escrow agent an acknowledgment of receipt and a true and correct copy of the permanent title record as of the commencement of the period of moratorium.

(c) If a secured party fails to comply with the provisions of subdivision (a) relating to releases of lien and the secured party thereafter receives a written demand from the registered owner that the secured party release its lien, the secured party shall be liable to the registered owner for all actual damages suffered by the registered owner by reason of the failure to release the lien unless the secured party, within 20 days of receipt of the demand, complies with the requirements of subdivision (a), except where the secured party has reasonable cause for noncompliance.

(d) Whenever the title or interest of the registered owner or legal owner in or to a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under this part passes to another in a manner other than by voluntary transfer, the new registered owner or legal owner may obtain a transfer of registration upon application therefor and upon presentation of the last certificate of title, if available, and current registration card, if available, issued for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and any instruments or documents of authority or certified copies thereof as may be required by the department, or required by law, to evidence or effect the transfer of title or interest in that case. The department, when satisfied of the genuineness and regularity of the transfer, shall amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, issue a new current registration card and certificate of title, and forward copies of the current registration card to all junior lienholders.

(e) The department shall not transfer registration until the applicant complies with the requirements of Section 18092.7.

SEC. 10. Section 18210.5 of the Health and Safety Code is amended to read:

18210.5. "Manufactured home" as used in this part shall have the same meaning as defined in Section 18007.

SEC. 11. Section 18211 of the Health and Safety Code is amended to read:

18211. "Mobilehome" as used in this part shall have the same meaning as defined in Section 18008.

SEC. 12. Section 18215.5 of the Health and Safety Code is amended to read:

18215.5. "Recreational vehicle" as used in this part has the same meaning as defined in Section 18010.

SEC. 13. Section 18218 of the Health and Safety Code is amended to read:

18218. "Commercial coach" as used in this part has the same meaning as defined in Section 18001.8.

SEC. 14. Section 18218.5 of the Health and Safety Code is amended to read:

18218.5. "Special purpose commercial coach" as used in this part has the same meaning as defined in Section 18012.5.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 766

An act to amend Sections 17207, 18681.6, 19269, 23608, and 24347.5 of the Revenue and Taxation Code, and to amend Section 13052.5 of the Unemployment Insurance Code, relating to taxation.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990.]

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) any loss sustained during 1987 as a result of a forest fire or any other related casualty, (4) from earthquake, aftershock, or any other related casualty occurring in 1987 in California, or (5) from earthquake, aftershock, or any other related casualty occurring in 1989 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, 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", at the election of the taxpayer, may be carried 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. However, if there is any "excess loss" remaining after the five-year period, then 50 percent of that "excess loss" may be carried forward to each of the next 10 taxable years.

(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 or city 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 sustained during October 1987 as the result of earthquake, aftershock, or any other related casualty.

(4) Any loss resulting from the earthquake which occurred in October 1989, aftershock, or any other related casualty.

(e) Losses described in this section may not be taken into account in computing a net operating loss deduction under Section 17276.

SEC. 1.5. 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) any loss sustained during 1987 as a result of a forest fire or any

other related casualty, (4) from earthquake, aftershock, or any other related casualty occurring in 1987 in California, or (5) from earthquake aftershock, or any other related casualty occurring in 1989 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, 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", at the election of the taxpayer, may be carried 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. However, if there is any "excess loss" remaining after the five-year period, then 50 percent of that "excess loss" may be carried forward to each of the next 10 taxable years.

(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 or city 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 sustained during October 1987 as the result of earthquake, aftershock, or any other related casualty.

(4) Any loss resulting from the earthquake which occurred in October 1989, aftershock, or any other related casualty.

(e) This section and Section 165(i) of the Internal Revenue Code shall be applicable to any loss sustained during February and March of 1990 as a result of the Upland earthquake of February 28, 1990.

(f) Losses described in this section may not be taken into account in computing a net operating loss deduction under Section 17276.

SEC. 2. 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 Sections 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 or collection of any penalty imposed by subdivision (a).

(e) The penalty imposed under subdivision (a) shall be in lieu of the penalty imposed under Section 13052.5 of the Unemployment Insurance Code (relating to unreported compensation). In the event that a penalty is imposed under this section and Section 13052.5 of the Unemployment Insurance Code, only the penalty imposed under Section 13052.5 of the Unemployment Insurance Code shall apply.

SEC. 3. 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:

(1) 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; and

(2) The determination specified in subsection (b) of Section 6621 shall be modified to be determined semiannually as follows:

(A) The rate for January shall apply during the following July through December, and

(B) The rate for July shall apply during the following January through June.

(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. 4. Section 23608 of the Revenue and Taxation Code is amended to read:

23608. (a) In the case of a taxpayer who donates agricultural products under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code, for income years beginning on or after January 1, 1989, and before January 1, 1992, there shall be allowed as a credit against the "tax" (as defined by Section 23036), an amount equal to 10 percent of the cost included in inventory costs under Section 263A of the Internal Revenue Code, or which would be required to be included in inventory costs under Section 263A of the Internal Revenue Code but for the exception for farming businesses contained in Section 263A(d) of the Internal Revenue Code, with respect to those agricultural products.

(b) 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 its 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 a partner's distributive share.

(c) If the credit allowed by this section is claimed by the taxpayer, any deduction otherwise allowed under this part for that amount of the cost paid or incurred by the taxpayer which is eligible for the credit shall be reduced by the amount of the credit provided in subdivision (a).

(d) Upon receipt of the donated agricultural product, the nonprofit organization shall provide a certificate to the donor. The certificate shall contain a statement signed and dated by a person authorized by that organization that the product is donated under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code. The certificate shall also contain the following information: the type and quantity of product donated, the name of donor or donors, and the name and address of the donee. Upon the request of the Franchise Tax Board, the taxpayer shall provide a copy of the certification to the Franchise Tax Board.

(e) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit is exhausted.

(f) This section shall remain in effect only until December 1, 1992, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (e), until the credit has been exhausted.

SEC. 5. Section 24347.5 of the Revenue and Taxation Code is amended to read:

24347.5. (a) In lieu of Section 24347, for disaster losses resulting (1) from 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) any loss sustained during 1987 as a result of a forest fire or any other related casualty, (4) from earthquake, aftershock, or any other related casualty occurring in October, 1987, or (5) from earthquake, aftershock, or any related casualty occurring in October 1989, in California, a deduction is allowed pursuant to Section 165(i) of the Internal Revenue Code.

(b) To the extent that losses under subdivision (a) exceed the net income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the net income of the year preceding the loss, then that "excess loss," at the election of the taxpayer, may be carried forward to each of the five income years following the income year the loss is claimed. However, if there is any "excess loss" remaining after the five-year period, then 50 percent of that "excess loss" may be carried forward to each of the next 10 income years.

(c) The entire amount of any "excess loss" as defined in subdivision (b) shall be carried to the earliest of the income 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 income years shall be the excess, if any, of the amount of "excess loss" over the sum of the net income for each of the prior income 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 or city 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 sustained during October 1987, as the result of earthquake, aftershock, or any other related casualty.

(4) Any loss resulting from the earthquake which occurred in October 1989, aftershock, or any other related casualty.

(e) Any corporation subject to the provisions of Section 25101 or 25101.15 that has disaster losses pursuant to this section, shall determine the "excess loss" to be carried to other income years under the principles specified in Section 25108 relating to net operating losses.

(f) Losses described in this section may not be taken into account in computing a net operating loss deduction under Section 24416.

SEC. 6. Section 13052.5 of the Unemployment Insurance Code is amended to read:

13052.5. (a) In addition to the penalty imposed by Section

18681.1 of the Revenue and Taxation Code (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 this code or Sections 18802 and 18802.2 of the Revenue and Taxation Code on the date prescribed thereof (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 of the Revenue and Taxation Code 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 this code or Section 18802 or 18802.2 of the Revenue and Taxation Code.

(d) Sections 1221 and 1222 of the Unemployment Insurance Code shall not apply to assessments imposed by this section.

(e) The penalty imposed under this section shall be in lieu of the penalty imposed under Section 18681.6 of the Revenue and Taxation Code. In the event that a penalty is imposed under both this section and Section 18681.6 of the Revenue and Taxation Code, only the penalty imposed under this section shall apply.

(f) The penalty imposed by this section may be assessed in lieu of, or in addition to, the penalty imposed by Section 13052 with respect to the failure to furnish a withholding statement to an employee.

SEC. 7. Section 1.5 of this bill incorporates amendments to Section 17207 of the Revenue and Taxation Code proposed by this bill and SB 2833. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1991, (2) each bill amends Section 17207 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 2833, in which case Section 17207 of the Revenue and Taxation Code, as amended by SB 2833, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 767

An act to amend Sections 12281 and 12287 of, and to repeal Sections 12282, 12283, 12284, 12285, 12286, and 12290 of, the Revenue and Taxation Code, relating to insurance taxation, to take effect immediately, tax levy.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 12281 of the Revenue and Taxation Code is amended to read:

12281. Annually, on or before April 1, each insurer subject to the imposition of retaliatory exactions shall file, in duplicate, with the Insurance Commissioner, in accordance with regulations promulgated by him or her, a retaliatory tax return in the form prescribed by the Insurance Commissioner. Annually, on or before June 15th, each insurer subject to the imposition of ocean marine taxes shall amend its retaliatory tax return by filing, in duplicate, with the Insurance Commissioner, an amended ocean marine retaliatory tax return in the form prescribed by the Insurance Commissioner.

SEC. 2. Section 12282 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 12283 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 12284 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 12285 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 12286 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 12287 of the Revenue and Taxation Code is amended to read:

12287. Except for the retaliatory tax due on ocean marine insurance, the retaliatory tax shall be due and payable on or before April 1 and shall be paid by remittance made payable to the Controller. Any additional retaliatory tax due on account of ocean marine insurance shall be due and payable on or before June 15 and shall be paid by remittance made payable to the Controller. If not paid on or before the due date, the amount of retaliatory tax shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from April 1 (June 15 with respect to any additional ocean marine retaliatory tax) until the date of payment, and there shall be paid in addition to the tax and interest, a penalty of 10 percent of the amount of the retaliatory tax.

SEC. 8. Section 12290 of the Revenue and Taxation Code is repealed.

SEC. 9. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for 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 years beginning on or after the first day of the calendar year following the effective date.

CHAPTER 768

An act to add Section 1275.7 to the Health and Safety Code, relating to hospital security.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 1275.7 is added to the Health and Safety Code, to read:

1275.7. (a) The Legislature makes the following findings and declarations:

(1) The theft of newborn babies from hospitals is a serious societal problem that must be addressed.

(2) There is no statutory requirement that hospitals offering maternity services establish policies and procedures that protect newborns and their parents from physical harm and emotional distress resulting from baby thefts.

(3) Societal change has popularized a more open and natural birthing process, which, unfortunately, increases the risk of thefts of newborns from hospitals and other health facilities offering maternity services.

(4) Baby thefts detrimentally affect the emotional and physical health of newborns and their families.

(5) It is the intent of the Legislature in enacting this chapter to take reasonable steps toward reducing baby thefts.

(b) On or before July 1, 1991, the state department shall adopt regulations requiring any hospital or other health facility offering maternity services to establish written policies and procedures designed to promote the protection of babies and the reduction of baby thefts from hospitals or other health facilities offering maternity services. Those hospitals and facilities shall establish the policies and procedures no later than 60 days after the regulations become effective.

(c) The state department shall review the policies and procedures

established by the hospitals and other health facilities, as required by subdivision (b), to determine compliance with the regulations adopted by the state department, pursuant to subdivision (b).

(d) Hospitals and other health facilities offering maternity services shall periodically review their policies and procedures established pursuant to this section. The review need not occur more frequently than every two years.

SEC. 2. The Legislature finds and declares that the regulation adopted by the State Department of Health Services on January 24, 1990, Section 70738 of Title 22 of the California Code of Regulations, satisfies the requirement to adopt regulations imposed by this act.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 769

An act to amend Section 432.7 of the Labor Code, and to amend Section 13300 of, and to add Section 13203 to, the Penal Code, relating to employment.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 432.7 of the Labor Code is amended to read:

432.7. (a) No employer whether a public agency or private individual or corporation shall ask an applicant for employment to disclose, through any written form or verbally, information concerning an arrest or detention which did not result in conviction, or information concerning a referral to and participation in any pretrial or posttrial diversion program, nor shall any employer seek from any source whatsoever, or utilize, as a factor in determining any condition of employment including hiring, promotion, termination, or any apprenticeship training program or any other training program leading to employment, any record of arrest or detention which did not result in conviction, or any record regarding a referral to and participation in any pretrial or posttrial diversion program. As used in this section, a conviction shall include a plea, verdict, or finding of guilt regardless of whether sentence is imposed by the

court. Nothing in this section shall prevent an employer from asking an employee or applicant for employment about an arrest for which the employee or applicant is out on bail or on his or her own recognizance pending trial.

(b) Nothing in this section shall prohibit the disclosure of the information authorized for release under Sections 13203 and 13300 of the Penal Code, to a government agency employing a peace officer. However, the employer shall not determine any condition of employment other than paid administrative leave based solely on an arrest report. The information contained in an arrest report may be used as the starting point for an independent, internal investigation of a peace officer in accordance with Chapter 9.7 (commencing with Section 3300) of Division 4 of Title 1 of the Government Code.

(c) In any case where a person violates any provision of this section, or Article 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part 4 of the Penal Code, the applicant may bring an action to recover from such person actual damages or two hundred dollars ($200), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section shall entitle the applicant to treble actual damages, or five hundred dollars ($500), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(d) The remedies under this section shall be in addition to and not in derogation of all other rights and remedies which an applicant may have under any other law.

(e) Persons seeking employment or persons already employed as peace officers or for positions in the Department of Justice or other criminal justice agencies as defined in Section 13101 of the Penal Code are not covered by this section.

(f) Nothing in this section shall prohibit an employer at a health facility, as defined in Section 1250 of the Health and Safety Code, from asking an applicant for employment either of the following:

(1) With regard to an applicant for a position with regular access to patients, to disclose an arrest under any section specified in Section 290 of the Penal Code.

(2) With regard to an applicant for a position with access to drugs and medication, to disclose an arrest under any section specified in Section 11590 of the Health and Safety Code.

(g) (1) No peace officer or employee of a law enforcement agency with access to criminal offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose, with intent to affect a person's employment, any information contained therein pertaining to an arrest or detention or proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, to any person not authorized by law to receive such information.

(2) No other person authorized by law to receive criminal

offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose any information received therefrom pertaining to an arrest or detention or proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, to any person not authorized by law to receive such information.

(3) No person, except those specifically referred to in Section 1070 of the Evidence Code, who knowing he or she is not authorized by law to receive or possess criminal justice records information maintained by a local law enforcement criminal justice agency, pertaining to an arrest or other proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, shall receive or possess such information.

(h) "A person authorized by law to receive such information", for purposes of this section, means any person or public agency authorized by a court, statute, or decisional law to receive information contained in criminal offender records maintained by a local law enforcement criminal justice agency, and includes, but is not limited to, those persons set forth in Section 11105 of the Penal Code, and any person employed by a law enforcement criminal justice agency who is required by such employment to receive, analyze, or process criminal offender record information.

(i) Nothing in this section shall require the Department of Justice to remove entries relating to an arrest or detention not resulting in conviction from summary criminal history records forwarded to an employer pursuant to law.

(j) As used in this section, "pretrial or posttrial diversion program" means any program under Chapter 2.5 (commencing with Section 1000) or Chapter 2.7 (commencing with Section 1001) of Title 6 of Part 2 of the Penal Code, Section 13201, 13201.5 or 13352.5 of the Vehicle Code, or any other program expressly authorized and described by statute as a diversion program.

SEC. 2. Section 13203 is added to the Penal Code, to read:

13203. Any criminal justice agency shall be authorized to release information concerning an arrest or detention of a peace officer which did not result in conviction, or information concerning a referral to, and participation in, any postarrest diversion program to a government agency employer of that peace officer.

SEC. 3. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 of the Penal Code pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

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

(1) The courts of the state.

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

(3) District attorneys of the state.

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

(5) Probation officers of the state.

(6) Parole officers of the state.

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

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

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

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist the agency, officer, or official in fulfilling employment, certification, or licensing duties, and when the access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when the criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon the specified criminal conduct.

(11) The subject of the local summary criminal history information.

(12) Any person or entity when access is expressly authorized by statute when the criminal history information is required to

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

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

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

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

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

(3) To a peace officer of another country.

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

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

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

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

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

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing persons who will be seeking entrance to private residences in the course of their employment. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the local agency supplies the data pursuant to this paragraph, it shall furnish a copy of the data to the person to whom the data relate.

Any information obtained from the local summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed 30 days after employment is denied or granted, including any appeal periods, except for those cases where an employee or applicant is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed 30 days after the case is resolved, including any appeal periods.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the employee or applicant who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violation.

Nothing in this section shall be construed as imposing any duty upon public utilities to request local summary criminal history information on any current or prospective employee.

Seeking entrance to private residences in the course of employment shall be deemed a "compelling need" as required to be shown in this subdivision.

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

(e) A local agency taking fingerprints of a person who is an applicant for licensing, employment, or certification may charge a fee not to exceed ten dollars ($10) in order to cover the cost of taking the fingerprints and processing the required documents.

(f) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee which it determines to be sufficient to reimburse the local agency for the cost of furnishing the information, provided that no fee shall be charged to any public law enforcement agency for local summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer, or criminal investigator. Any state agency required to pay a fee to the local agency for information received under this section may charge the applicant a fee sufficient to reimburse the agency for the expense.

(g) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

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

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

(j) Notwithstanding any other provision of law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information record checks which are authorized by law.

(k) Any local criminal justice agency shall be authorized to release information concerning an arrest or detention of a peace officer which did not result in conviction, or information concerning a referral to, and participation in, any postarrest diversion program to a government agency employer of that peace officer.

CHAPTER 770

An act to amend Sections 3716 and 4603.2 of, and to add Section 3716.3 to, the Labor Code, relating to workers' compensation.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 3716 of the Labor Code is amended to read:

3716. (a) If the employer fails to pay the compensation required by Section 3715 to the person entitled thereto, or fails to furnish the bond required by Section 3715 within a period of 10 days after notification of the award, the award, upon application by the person entitled thereto, shall be paid by the director from the Uninsured Employers Fund, which fund is hereby created in the State Treasury. The money in the Uninsured Employers Fund is hereby continuously appropriated for this purpose and to pay the expenses of the director in administering these provisions. Refunds may be paid from the Uninsured Employers Fund for amounts remitted erroneously to the fund, or the director may authorize offsetting subsequent remittances to the fund.

(b) It is the intent of the Legislature that the Uninsured Employers Fund is created to ensure that workers who happen to be employed by illegally uninsured employers are not deprived of workers' compensation benefits, and is not created as a source of contribution to insurance carriers, or self-insured, or legally insured employers. The Uninsured Employers Fund has no liability for

claims of occupational disease or cumulative injury unless no employer during the period of the occupational disease or cumulative injury during which liability is imposed under Section 5500.5 was insured for workers' compensation, was permissibly self-insured, or was legally uninsured. No employer has a right of contribution against the Uninsured Employers Fund for the liability of an illegally uninsured employer under an award of benefits for occupational disease or cumulative injury, nor may an employee in a claim of occupational disease or cumulative injury elect to proceed against an illegally uninsured employer.

(c) The Uninsured Employers Fund has no liability to pay for medical, surgical, chiropractic, hospital, or other treatment, the liability for which treatment is imposed upon the employer pursuant to Section 4600, and which treatment has been provided or paid for by the State Department of Health Services pursuant to the California Medical Assistance Program.

(d) The Uninsured Employers Fund shall have no liability to pay compensation, nor shall it be joined in any appeals board proceeding, unless the employer alleged to be illegally uninsured shall first either have made a general appearance or have been served with the application specified in Section 3715 and with a special notice of lawsuit issued by the appeals board. The special notice of lawsuit shall be in a form to be prescribed by the appeals board, and it shall contain at least the information and warnings required by the Code of Civil Procedure to be contained in the summons issued in a civil action. The special notice of lawsuit shall also contain a notice that if the appeals board makes an award against the defendant that his or her house or other dwelling and other property may be taken to satisfy the award in a nonjudicial sale, with no exemptions from execution. The special notice of lawsuit shall, in addition, contain a notice that a lien may be imposed upon the defendant's property without further hearing and before the issuance of an award. The applicant shall identify a legal person or entity as the employer named in the special notice of lawsuit. The reasonable expense of serving the application and special notice of lawsuit, when incurred by the employee, shall be awarded as a cost. Proof of service of the special notice of lawsuit and application shall be filed with the appeals board.

(1) The application and special notice of lawsuit may be served, within or without this state, in the manner provided for service of summons in the Code of Civil Procedure. Thereafter, an employer, alleged to be illegally uninsured, shall notify the appeals board of the address at which it may be served with official notices and papers, and shall notify the appeals board of any changes in the address. No findings, order, decision, award, or other notice or paper need be served in this manner on an employer, alleged to be illegally uninsured, who has been served as provided in this section, and who has not filed an answer, otherwise made a general appearance, or furnished the appeals board with its address. The findings, orders,

decisions, awards, or other notice or paper may be mailed to the employer as the board, by regulation, may provide.

(2) Notwithstanding paragraph (1), if the employer alleged to be illegally uninsured has not filed an answer, otherwise made a general appearance, or furnished the appeals board with its address, the appeals board shall serve any findings, order, decision, award, or other notice or paper on the employer by mail at the address the appeals board has for the employer. The failure of delivery at that address or the lack of personal service on an employer who has been served as provided in this section, of these findings, order, decision, award, or other notice or paper, shall not constitute grounds for reopening or invalidating any appeals board action pursuant to Section 5506, or for contesting the validity of any judgment obtained under Section 3716 or 5806, a lien under Section 3720, or a settlement under subdivision (e) of Section 3715.

(3) The board, by regulation, may provide for service procedures in cases where a request for new and further benefits is made after the issuance of any findings and award and a substantial period of time has passed since the first service or attempted service.

(4) The director, on behalf of the Uninsured Employers Fund, shall furnish information as to the identities, legal capacities, and addresses of uninsured employers known to the director upon request of the board or upon a showing of good cause by the employee or the employee's representative. Good cause shall include a declaration by the employee's representative, filed under penalty of perjury, that the information is necessary to represent the employee in proceedings under this division.

SEC. 2. Section 3716.3 is added to the Labor Code, to read:

3716.3. (a) Notwithstanding any other provision of law to the contrary, when the director obtains a judgment against an uninsured employer, the director may, in addition to any other remedies provided by law, enforce the judgment by nonjudicial foreclosure. This enforcement shall not be subject to Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure relating to claiming exemptions after levy.

(b) To enforce the judgment by nonjudicial foreclosure, the director shall record with the county recorder of any county in which real property of the parties against whom the judgment is taken is located, a certified copy of the judgment together with the director's notice of intent to foreclose. The notice of intent to foreclose shall set forth all of the following:

(1) The name, address, and telephone number of the trustee authorized by the director to enforce the lien by sale.

(2) The legal description of the real property to be foreclosed upon.

(3) Proof of service by registered or certified mail on the following:

(A) The parties against whom the foreclosure is sought at their last known address as shown on the official records of the appeals

board and as shown on the latest recorded deed, deed of trust, or mortgage affecting the real property which is the subject of the foreclosure.

(B) All of the owners of the real property which is subject to the foreclosure at their last address as shown on the latest equalized assessment roll.

(c) Upon the expiration of 20 days following recording of the judgment and notice of intent to foreclose, the trustee may proceed to sell the real property. Any sale by the trustee shall be conducted in accordance with Article 1 (commencing with Section 2920) of Chapter 2 of Title 14 of Part 4 of Division 3 of the Civil Code applicable to the exercise of powers of sale of property under powers created by mortgages and deeds of trust.

(d) The director may authorize any person, including an attorney, corporation, or other business entity, to act as trustee pursuant to subdivision (b).

(e) Except as provided in subdivision (f), this section shall apply to all judgments which the director has obtained or may obtain pursuant to Section 3717, 3726, or 5806.

(f) This section shall not apply to the principal residence of an employer if the appeals board finds that the employer, on the date of injury, employed 10 or fewer employees. An employer seeking this exemption shall provide proof of payment of tax withholding required pursuant to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code, to assist in determining the number of employees on the date of injury.

SEC. 3. Section 4603.2 of the Labor Code is amended to read:

4603.2. (a) Upon selecting a physician pursuant to Section 4600, the employee or physician shall forthwith notify the employer of the name and address of the physician. The physician shall submit a report to the employer within five working days from the date of the initial examination and shall submit periodic reports at intervals that may be prescribed by rules and regulations adopted by the administrative director.

(b) Payment for medical treatment provided or authorized by the treating physician shall be made by the employer within 60 days after receipt of each separate, itemized billing, together with any required reports. Any properly documented amount not paid within the 60-day period shall be increased by 10 percent, together with interest at the same rate as judgments in civil actions retroactive to the date of receipt of the bill, unless the employer does both of the following:

(1) Pays the uncontested amount within the 60-day period.

(2) Advises, in the manner prescribed by the administrative director, the physician, or another provider of the items being contested, the reasons for contesting these items, and the remedies available to the physician or the other provider if he or she disagrees. In the case of a bill which includes charges from a hospital, outpatient surgery center, or independent diagnostic facility, advice that a request has been made for an audit of the bill shall satisfy the

requirements of this paragraph.

If an employer contests all or part of a billing, any amount determined payable by the appeals board shall carry interest from the date the amount was due until it is paid.

An employer's liability to a physician or another provider under this section for delayed payments shall not affect its liability to an employee under Section 5814 or any other provision of this division.

(c) Any interest or increase in compensation paid by an insurer pursuant to this section shall be treated in the same manner as an increase in compensation under subdivision (d) of Section 4650 for the purposes of any classification of risks and premium rates, and any system of merit rating approved or issued pursuant to Article 2 (commencing with Section 11730) of Chapter 3 of Part 3 of Division 2 of the Insurance Code.

SEC. 4. Section 2 of this act shall be retroactive in effect and shall apply to all obligations of illegally uninsured employers to the director, regardless of the date of injury to the employee.

SEC. 5. The Legislature finds and declares all of the following:

(a) It is necessary for the fiscal integrity of the Uninsured Employers Fund that its ability to recover from uninsured employers the benefits it pays to the employees of uninsured employers be further assured.

(b) The procedures for service of a special notice of lawsuit and application set forth in Section 1 of this act, together with procedures for contesting liens under subdivision (d) of Section 3715, shall provide specific notice of the proceedings and great certainty that the notice will be received. No greater notice or certainty of the receipt would be provided by requiring the Uninsured Employers Fund to enforce the obligations of uninsured employees to it by proceeding by way of judicial foreclosure instead of by the nonjudicial foreclosure remedies created in this act.

(c) Employers who have failed to secure the payment of compensation, and who then fail voluntarily to pay the compensation required by Section 3715, or fail to post a bond, within 10 days and thereafter cause the Uninsured Employers Fund to discharge their obligations, shall be deemed to have consented to creation of the liens as set forth in Section 3715 and the nonjudicial foreclosure remedies created by this act.

(d) Employers who have failed to make adequate provisions for their employees and those dependent on them, to relieve from the consequences of injury or death incurred or sustained by the employees in their course of employment by failing to secure the payment of compensation and by failing voluntarily to provide compensation, have thereby forced these workers and their dependents to file applications before the Workers' Compensation Appeals Board. By requiring this resort to formal adjudication, these employers defeat the constitutional mandate of providing workers' compensation expeditiously. Therefore, the Legislature exercises its plenary power, unlimited by any other provision of the Constitution,

to create the procedures and remedies created by this act to deter failures to secure insurance and, in the event of negligent failure, to deter voluntary refusals to provide relief from the consequences of employment injury or death.

(e) Due process requires that uninsured employers be given adequate notice and warning of the pendency of workers' compensation actions against them and of the possible consequences of these actions. The Legislature has determined that the service of the special notice of lawsuit shall give adequate notice and warning. The Legislature further finds that it is imperative that the workers' compensation system remain simple and rapid so that benefits are delivered to workers in an expeditious manner. It is determined that in other cases where the employer is insured or self-insured, but where personal liability may attach to the employer, that sufficient notice of the pendency of the proceedings already exists, and it is not necessary to provide a form of special notice of lawsuit.

SEC. 6. The amendments to Section 4603.2 of the Labor Code made by Section 3 of this act shall apply to injuries occurring on or after January 1, 1991.

CHAPTER 771

An act to amend Section 2034 of the Code of Civil Procedure, and to amend Section 68092.5 of the Government Code, relating to civil procedure.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 2034 of the Code of Civil Procedure is amended to read:

2034. (a) After the setting of the initial trial date for the action, any party may obtain discovery by demanding that all parties simultaneously exchange information concerning each other's expert trial witnesses to the following extent:

(1) Any party may demand a mutual and simultaneous exchange by all parties of a list containing the name and address of any natural person, including one who is a party, whose oral or deposition testimony in the form of an expert opinion any party expects to offer in evidence at the trial.

(2) If any expert designated by a party under paragraph (1) is a party or an employee of a party, or has been retained by a party for the purpose of forming and expressing an opinion in anticipation of the litigation or in preparation for the trial of the action, the designation of that witness shall include or be accompanied by an expert witness declaration under paragraph (2) of subdivision (f).

(3) Any party may also include a demand for the mutual and simultaneous production for inspection and copying of all discoverable reports and writings, if any, made by any expert described in paragraph (2) in the course of preparing that expert's opinion.

This section does not apply to exchanges of lists of experts and valuation data in eminent domain proceedings under Chapter 7 (commencing with Section 1258.010) of Title 7 of Part 3.

(b) Any party may make a demand for an exchange of information concerning expert trial witnesses without leave of court. A party shall make this demand no later than the 10th day after the initial trial date has been set, or 70 days before that trial date, whichever is closer to the trial date.

(c) A demand for an exchange of information concerning expert trial witnesses shall be in writing and shall identify, below the title of the case, the party making the demand. The demand shall state that it is being made under this section.

The demand shall specify the date for the exchange of lists of expert trial witnesses, expert witness declarations, and any demanded production of writings. The specified date of exchange shall be 50 days before the initial trial date, or 20 days after service of the demand, whichever is closer to the trial date, unless the court, on motion and a showing of good cause, orders an earlier or later date of exchange.

(d) The party demanding an exchange of information concerning expert trial witnesses shall serve the demand on all parties who have appeared in the action.

(e) A party who has been served with a demand to exchange information concerning expert trial witnesses may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense. The protective order may include, but is not limited to, one or more of the following directions:

(1) That the demand be quashed because it was not timely served.

(2) That the date of exchange be earlier or later than that specified in the demand.

(3) That the exchange be made only on specified terms and conditions.

(4) That the production and exchange of any reports and writings of experts be made at a different place or at a different time than that specified in the demand.

(5) That some or all of the parties be divided into sides on the basis of their identity of interest in the issues in the action, and that the designation of any experts as described in paragraph (2) of subdivision (a) be made by any side so created.

(6) That a party or a side reduce the list of employed or retained experts designated by that party or side under paragraph (2) of subdivision (a).

If the motion for a protective order is denied in whole or in part, the court may order that the parties against whom the motion is brought, provide or permit the discovery against which the protection was sought on those terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) All parties who have appeared in the action shall exchange information concerning expert witnesses in writing on or before the date of exchange specified in the demand. The exchange of information may occur at a meeting of the attorneys for the parties involved or by a mailing on or before the date of exchange.

(1) The exchange of expert witness information shall include either of the following:

(A) A list setting forth the name and address of any person whose expert opinion that party expects to offer in evidence at the trial.

(B) A statement that the party does not presently intend to offer the testimony of any expert witness.

(2) If any witness on the list is an expert as described in paragraph (2) of subdivision (a), the exchange shall also include or be accompanied by an expert witness declaration signed only by the attorney for the party designating the expert, or by that party if that party has no attorney. This declaration shall be under penalty of perjury and shall contain:

(A) A brief narrative statement of the qualifications of each expert.

(B) A brief narrative statement of the general substance of the testimony that the expert is expected to give.

(C) A representation that the expert has agreed to testify at the trial.

(D) A representation that the expert will be sufficiently familiar with the pending action to submit to a meaningful oral deposition concerning the specific testimony, including any opinion and its basis, that the expert is expected to give at trial.

(E) A statement of the expert's hourly and daily fee for providing deposition testimony.

(g) If a demand for an exchange of information concerning expert trial witnesses includes a demand for production of reports and writings as described in paragraph (3) of subdivision (a), all parties shall produce and exchange, at the place and on the date specified in the demand, all discoverable reports and writings, if any, made by any designated expert described in paragraph (2) of subdivision (a).

(h) Within 20 days after the exchange described in subdivision (f), any party who engaged in the exchange may submit a

supplemental expert witness list containing the name and address of any experts who will express an opinion on a subject to be covered by an expert designated by an adverse party to the exchange, if the party supplementing an expert witness list has not previously retained an expert to testify on that subject. This supplemental list shall be accompanied by an expert witness declaration under paragraph (2) of subdivision (f) concerning those additional experts, and by all discoverable reports and writings, if any, made by those additional experts. The party shall also make those experts available immediately for a deposition under subdivision (i), which deposition may be taken even though the time limit for discovery under Section 2024 has expired.

(i) On receipt of an expert witness list from a party, any other party may take the deposition of any person on the list. The procedures for taking oral and written depositions set forth in Sections 2025, 2026, 2027, and 2028 apply to a deposition of a listed trial expert witness except as follows:

(1) The deposition of any expert described in paragraph (2) of subdivision (a) shall be taken at a place that is within 75 miles of the courthouse where the action is pending. However, on motion for a protective order by the party designating an expert witness, and on a showing of exceptional hardship, the court may order that the deposition be taken at a more distant place from the courthouse.

(2) A party desiring (A) to depose any expert described in paragraph (2) of subdivision (a) except one who is a party or an employee of a party, or (B) to depose any treating physician and surgeon or other treating health care practitioner who is to be asked to express an opinion during the deposition, shall pay the expert's reasonable and customary hourly or daily fee for the actual time consumed in the examination of that expert by any party attending the deposition. However, the hourly or daily fee shall not exceed the fee charged the party who retained the expert except where the expert donated his or her services to a charitable or other nonprofit organization. In a worker's compensation case arising under Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor Code, a party desiring to depose any expert on another party's expert witness list shall pay this fee.

The party taking the deposition shall either accompany the service of the deposition notice with a tender of the expert's fee based on the anticipated length of the deposition or tender that fee at the commencement of the deposition. The expert's fee shall be delivered to the attorney for the party designating the expert. If the deposition of the expert takes longer than anticipated, the party giving notice of the deposition shall pay the balance of the expert's fee within five days of receipt of an itemized statement from the expert. The party designating the expert is responsible for any fee charged by the expert for preparing for the deposition and for traveling to the place of the deposition, as well as for any travel expenses of the expert.

(3) The service of a proper deposition notice accompanied by the

tender of the expert witness fee described in paragraph (2) is effective to require the party employing or retaining the expert to produce the expert for the deposition. If the party noticing the deposition fails to tender the expert's fee under paragraph (2), the expert shall not be deposed at that time unless the parties stipulate otherwise.

(4) If a party desiring to take the deposition of an expert witness under this subdivision deems that the hourly or daily fee of that expert for providing deposition testimony is unreasonable, that party may move for an order setting the compensation of that expert. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. Notice of this motion shall also be given to the expert.

The court shall set the fee of the expert for providing deposition testimony if it determines that the fee demanded by that expert is unreasonable.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to set the expert witness fee, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(j) Except as provided in subdivisions (k), (*l*), and (m), on objection of any party who has made a complete and timely compliance with subdivision (f), the trial court shall exclude from evidence the expert opinion of any witness that is offered by any party who has unreasonably failed to do any of the following:

(1) List that witness as an expert under subdivision (f).

(2) Submit an expert witness declaration.

(3) Produce reports and writings of expert witnesses under subdivision (g).

(4) Make that expert available for a deposition under subdivision (i).

(k) On motion of any party who has engaged in a timely exchange of expert witness information, the court may grant leave to (1) augment that party's expert witness list and declaration by adding the name and address of any expert witness whom that party has subsequently retained, or (2) amend that party's expert witness declaration with respect to the general substance of the testimony that an expert previously designated is expected to give. This motion shall be made a sufficient time in advance of the time limit for the completion of discovery under Section 2024 to permit the deposition of any expert to whom the motion relates to be taken within that time limit. However, under exceptional circumstances, the court may permit the motion to be made at a later time. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. The demand, and all expert witness lists and declarations exchanged in response to it, shall be lodged with the

court when their contents become relevant to an issue in any pending matter in the action. The court shall grant leave to augment or amend an expert witness list or declaration only after taking into account the extent to which the opposing party has relied on the list of expert witnesses, and after determining that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits, and that the moving party either (1) would not in the exercise of reasonable diligence have determined to call that expert witness or have decided to offer the different or additional testimony of that expert witness, or (2) failed to determine to call that expert witness, or to offer the different or additional testimony of that expert witness as a result of mistake, inadvertence, surprise, or excusable neglect, provided that the moving party (1) has sought leave to augment or amend promptly after deciding to call the expert witness or to offer the different or additional testimony, and (2) has promptly thereafter served a copy of the proposed expert witness information concerning the expert or the testimony described in subdivision (f) on all other parties who have appeared in the action. Leave shall be conditioned on the moving party making the expert available immediately for a deposition under subdivision (i), and on such other terms as may be just, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to augment or amend expert witness information, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances made the imposition of the sanction unjust.

(*l*) On motion of any party who has failed to submit expert witness information on the date specified in a demand for that exchange, the court may grant leave to submit that information on a later date. This motion shall be made a sufficient time in advance of the time limit for the completion of discovery under Section 2024 to permit the deposition of any expert to whom the motion relates to be taken within that time limit. However, under exceptional circumstances, the court may permit the motion to be made at a later time. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court shall grant leave to submit tardy expert witness information only after taking into account the extent to which the opposing party has relied on the absence of a list of expert witnesses, and determining that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits, and that the moving party (1) failed to submit that

information as the result of mistake, inadvertence, surprise, or excusable neglect, (2) sought that leave promptly after learning of the mistake, inadvertence, surprise, or excusable neglect, and (3) has promptly thereafter served a copy of the proposed expert witness information described in subdivision (f) on all other parties who have appeared in the action. This order shall be conditioned on the moving party making that expert available immediately for a deposition under subdivision (i), and on such other terms as may be just, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to submit tardy expert witness information, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(m) A party may call as a witness at trial an expert not previously designated by that party if: (1) that expert has been designated by another party and has thereafter been deposed under subdivision (i), or (2) that expert is called as a witness to impeach the testimony of an expert witness offered by any other party at the trial. This impeachment may include testimony to the falsity or nonexistence of any fact used as the foundation for any opinion by any other party's expert witness, but may not include testimony that contradicts the opinion.

(n) The demand for an exchange of information concerning expert trial witnesses, and any expert witness lists and declarations exchanged shall not be filed with the court. The party demanding the exchange shall retain both the original of the demand, with the original proof of service affixed, and the original of all expert witness lists and declarations exchanged in response to the demand until six months after final disposition of the action. At that time, all originals may be destroyed unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

SEC. 2. Section 2034 of the Code of Civil Procedure is amended to read:

2034. (a) After the setting of the initial trial date for the action, any party may obtain discovery by demanding that all parties simultaneously exchange information concerning each other's expert trial witnesses to the following extent:

(1) Any party may demand a mutual and simultaneous exchange by all parties of a list containing the name and address of any natural person, including one who is a party, whose oral or deposition testimony in the form of an expert opinion any party expects to offer in evidence at the trial.

(2) If any expert designated by a party under paragraph (1) is a party or an employee of a party, or has been retained by a party for the purpose of forming and expressing an opinion in anticipation of the litigation or in preparation for the trial of the action, the designation of that witness shall include or be accompanied by an expert witness declaration under paragraph (2) of subdivision (f).

(3) Any party may also include a demand for the mutual and simultaneous production for inspection and copying of all discoverable reports and writings, if any, made by any expert described in paragraph (2) in the course of preparing that expert's opinion.

This section does not apply to exchanges of lists of experts and valuation data in eminent domain proceedings under Chapter 7 (commencing with Section 1258.010) of Title 7 of Part 3.

(b) Any party may make a demand for an exchange of information concerning expert trial witnesses without leave of court. A party shall make this demand no later than the 10th day after the initial trial date has been set, or 70 days before that trial date, whichever is closer to the trial date.

(c) A demand for an exchange of information concerning expert trial witnesses shall be in writing and shall identify, below the title of the case, the party making the demand. The demand shall state that it is being made under this section.

The demand shall specify the date for the exchange of lists of expert trial witnesses, expert witness declarations, and any demanded production of writings. The specified date of exchange shall be 50 days before the initial trial date, or 20 days after service of the demand, whichever is closer to the trial date, unless the court, on motion and a showing of good cause, orders an earlier or later date of exchange.

(d) The party demanding an exchange of information concerning expert trial witnesses shall serve the demand on all parties who have appeared in the action.

(e) A party who has been served with a demand to exchange information concerning expert trial witnesses may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense. The protective order may include, but is not limited to, one or more of the following directions:

(1) That the demand be quashed because it was not timely served.

(2) That the date of exchange be earlier or later than that specified in the demand.

(3) That the exchange be made only on specified terms and conditions.

(4) That the production and exchange of any reports and writings

of experts be made at a different place or at a different time than that specified in the demand.

(5) That some or all of the parties be divided into sides on the basis of their identity of interest in the issues in the action, and that the designation of any experts as described in paragraph (2) of subdivision (a) be made by any side so created.

(6) That a party or a side reduce the list of employed or retained experts designated by that party or side under paragraph (2) of subdivision (a).

If the motion for a protective order is denied in whole or in part, the court may order that the parties against whom the motion is brought, provide or permit the discovery against which the protection was sought on those terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) All parties who have appeared in the action shall exchange information concerning expert witnesses in writing on or before the date of exchange specified in the demand. The exchange of information may occur at a meeting of the attorneys for the parties involved or by a mailing on or before the date of exchange.

(1) The exchange of expert witness information shall include either of the following:

(A) A list setting forth the name and address of any person whose expert opinion that party expects to offer in evidence at the trial.

(B) A statement that the party does not presently intend to offer the testimony of any expert witness.

(2) If any witness on the list is an expert as described in paragraph (2) of subdivision (a), the exchange shall also include or be accompanied by an expert witness declaration signed only by the attorney for the party designating the expert, or by that party if that party has no attorney. This declaration shall be under penalty of perjury and shall contain:

(A) A brief narrative statement of the qualifications of each expert.

(B) A brief narrative statement of the general substance of the testimony that the expert is expected to give.

(C) A representation that the expert has agreed to testify at the trial.

(D) A representation that the expert will be sufficiently familiar with the pending action to submit to a meaningful oral deposition concerning the specific testimony, including any opinion and its basis, that the expert is expected to give at trial.

(E) A statement of the expert's hourly and daily fee for providing deposition testimony.

(g) If a demand for an exchange of information concerning expert trial witnesses includes a demand for production of reports and

writings as described in paragraph (3) of subdivision (a), all parties shall produce and exchange, at the place and on the date specified in the demand, all discoverable reports and writings, if any, made by any designated expert described in paragraph (2) of subdivision (a).

(h) Within 20 days after the exchange described in subdivision (f), any party who engaged in the exchange may submit a supplemental expert witness list containing the name and address of any experts who will express an opinion on a subject to be covered by an expert designated by an adverse party to the exchange, if the party supplementing an expert witness list has not previously retained an expert to testify on that subject. This supplemental list shall be accompanied by an expert witness declaration under paragraph (2) of subdivision (f) concerning those additional experts, and by all discoverable reports and writings, if any, made by those additional experts. The party shall also make those experts available immediately for a deposition under subdivision (i), which deposition may be taken even though the time limit for discovery under Section 2024 has expired.

(i) On receipt of an expert witness list from a party, any other party may take the deposition of any person on the list. The procedures for taking oral and written depositions set forth in Sections 2025, 2026, 2027, and 2028 apply to a deposition of a listed trial expert witness except as follows:

(1) The deposition of any expert described in paragraph (2) of subdivision (a) shall be taken at a place that is within 75 miles of the courthouse where the action is pending. However, on motion for a protective order by the party designating an expert witness, and on a showing of exceptional hardship, the court may order that the deposition be taken at a more distant place from the courthouse.

(2) A party desiring to depose any expert witness, other than a party or employee of a party, who is either (A) an expert described in paragraph (2) of subdivision (a) except one who is a party or an employee of a party, (B) a treating physician and surgeon or other treating health care practitioner who is to be asked to express an opinion during the deposition, or (C) an architect, professional engineer, or licensed land surveyor, who was involved with the original project design or survey for which he or she is asked to express an opinion within his or her expertise and relevant to the action or proceeding, shall pay the expert's reasonable and customary hourly or daily fee for the actual time consumed in the examination of that expert by any party attending the deposition. However, the hourly or daily fee shall not exceed the fee charged the party who retained the expert except where the expert donated his or her services to a charitable or other nonprofit organization. In a worker's compensation case arising under Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor Code, a party desiring to depose any expert on another party's expert witness list shall pay this fee.

The party taking the deposition shall either accompany the service

of the deposition notice with a tender of the expert's fee based on the anticipated length of the deposition or tender that fee at the commencement of the deposition. The expert's fee shall be delivered to the attorney for the party designating the expert. If the deposition of the expert takes longer than anticipated, the party giving notice of the deposition shall pay the balance of the expert's fee within five days of receipt of an itemized statement from the expert. The party designating the expert is responsible for any fee charged by the expert for preparing for the deposition and for traveling to the place of the deposition, as well as for any travel expenses of the expert.

(3) The service of a proper deposition notice accompanied by the tender of the expert witness fee described in paragraph (2) is effective to require the party employing or retaining the expert to produce the expert for the deposition. If the party noticing the deposition fails to tender the expert's fee under paragraph (2), the expert shall not be deposed at that time unless the parties stipulate otherwise.

(4) If a party desiring to take the deposition of an expert witness under this subdivision deems that the hourly or daily fee of that expert for providing deposition testimony is unreasonable, that party may move for an order setting the compensation of that expert. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. Notice of this motion shall also be given to the expert.

The court shall set the fee of the expert for providing deposition testimony if it determines that the fee demanded by that expert is unreasonable.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to set the expert witness fee, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(j) Except as provided in subdivisions (k), (*l*), and (m), on objection of any party who has made a complete and timely compliance with subdivision (f), the trial court shall exclude from evidence the expert opinion of any witness that is offered by any party who has unreasonably failed to do any of the following:

(1) List that witness as an expert under subdivision (f).

(2) Submit an expert witness declaration.

(3) Produce reports and writings of expert witnesses under subdivision (g).

(4) Make that expert available for a deposition under subdivision (i).

(k) On motion of any party who has engaged in a timely exchange of expert witness information, the court may grant leave to (1) augment that party's expert witness list and declaration by adding the name and address of any expert witness whom that party has subsequently retained, or (2) amend that party's expert witness

declaration with respect to the general substance of the testimony that an expert previously designated is expected to give. This motion shall be made a sufficient time in advance of the time limit for the completion of discovery under Section 2024 to permit the deposition of any expert to whom the motion relates to be taken within that time limit. However, under exceptional circumstances, the court may permit the motion to be made at a later time. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. The demand, and all expert witness lists and declarations exchanged in response to it, shall be lodged with the court when their contents become relevant to an issue in any pending matter in the action. The court shall grant leave to augment or amend an expert witness list or declaration only after taking into account the extent to which the opposing party has relied on the list of expert witnesses, and after determining that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits, and that the moving party either (1) would not in the exercise of reasonable diligence have determined to call that expert witness or have decided to offer the different or additional testimony of that expert witness, or (2) failed to determine to call that expert witness, or to offer the different or additional testimony of that expert witness as a result of mistake, inadvertence, surprise, or excusable neglect, provided that the moving party (1) has sought leave to augment or amend promptly after deciding to call the expert witness or to offer the different or additional testimony, and (2) has promptly thereafter served a copy of the proposed expert witness information concerning the expert or the testimony described in subdivision (f) on all other parties who have appeared in the action. Leave shall be conditioned on the moving party making the expert available immediately for a deposition under subdivision (i), and on such other terms as may be just, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to augment or amend expert witness information, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances made the imposition of the sanction unjust.

(*l*) On motion of any party who has failed to submit expert witness information on the date specified in a demand for that exchange, the court may grant leave to submit that information on a later date. This motion shall be made a sufficient time in advance of the time limit for the completion of discovery under Section 2024 to permit the deposition of any expert to whom the motion relates

to be taken within that time limit. However, under exceptional circumstances, the court may permit the motion to be made at a later time. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court shall grant leave to submit tardy expert witness information only after taking into account the extent to which the opposing party has relied on the absence of a list of expert witnesses, and determining that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits, and that the moving party (1) failed to submit that information as the result of mistake, inadvertence, surprise, or excusable neglect, (2) sought that leave promptly after learning of the mistake, inadvertence, surprise, or excusable neglect, and (3) has promptly thereafter served a copy of the proposed expert witness information described in subdivision (f) on all other parties who have appeared in the action. This order shall be conditioned on the moving party making that expert available immediately for a deposition under subdivision (i), and on such other terms as may be just, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to submit tardy expert witness information, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(m) A party may call as a witness at trial an expert not previously designated by that party if: (1) that expert has been designated by another party and has thereafter been deposed under subdivision (i), or (2) that expert is called as a witness to impeach the testimony of an expert witness offered by any other party at the trial. This impeachment may include testimony to the falsity or nonexistence of any fact used as the foundation for any opinion by any other party's expert witness, but may not include testimony that contradicts the opinion.

(n) The demand for an exchange of information concerning expert trial witnesses, and any expert witness lists and declarations exchanged shall not be filed with the court. The party demanding the exchange shall retain both the original of the demand, with the original proof of service affixed, and the original of all expert witness lists and declarations exchanged in response to the demand until six months after final disposition of the action. At that time, all originals may be destroyed unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

SEC. 3. Section 68092.5 of the Government Code is amended to read:

68092.5. (a) A party requiring testimony before any court, tribunal, or arbiter in any civil action or proceeding from any (1) expert described in paragraph (2) of subdivision (a) of Section 2034 of the Code of Civil Procedure, except one who is a party or an employee of a party, or (2) treating physician or other treating health care practitioner who is to be asked to express an opinion during the action or procedure, shall pay the reasonable and customary hourly or daily fee for the actual time consumed in the examination of that expert by any party attending the action or proceeding. The hourly or daily fee shall not exceed the fee charged the party who retained the expert except where the expert donated his or her services to a charitable or other nonprofit organization.

The party requiring the attendance shall either accompany the service of the subpoena or notice with a tender of the expert's fee based on the anticipated length of time the expert is required to remain at such place pursuant to the notice or subpoena or tender that fee at the required time of appearance. The expert's fee shall be delivered to the attorney for the party designating the expert. If the appearance of the expert takes longer than anticipated, the party serving the subpoena or notice shall pay the balance of the expert's fee within five days of receipt of an itemized statement from the expert. The party designating the expert is responsible for any fee charged by the expert for preparing for the testimony and for traveling to the place of the civil action or proceeding, as well as for any travel expenses of the expert, unless otherwise determined by the court.

(b) The service of a proper subpoena or notice accompanied by the tender of the expert witness fee described in subdivision (a) is effective to require the party employing or retaining the expert to produce the expert for testimony. If the party serving the notice or subpoena fails to tender the expert's fee under subdivision (a), the expert shall not be required to appear at that time unless the parties stipulate otherwise.

(c) If a party requiring the appearance by subpoena or notice of another party's expert witness under this subdivision deems that the hourly or daily fee of that expert for providing testimony is unreasonable, that party may move for an order setting the compensation of that expert. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. Notice of this motion shall also be given to the expert.

The court shall set the fee of the expert for providing testimony if it determines that the fee demanded by that expert is unreasonable.

(d) In the event the proceeding at which the expert witness has been notified his or her attendance is required is continued or canceled in advance of the time for which it is scheduled, such

witness shall be notified of the continuance or cancellation by the party requiring his or her attendance by the quickest and most reliable means of giving notice under the circumstances. In the event such party fails to give notice as required by this subdivision, then the expert witness shall be entitled to receive the compensation specified in subdivision (a) of this section, notwithstanding his or her failure to give any testimony.

(e) An express contract entered into between a person and the party requesting or requiring the person to testify, relating to compensation, shall be enforceable and shall prevail over the provisions of this section.

(f) The deposition of an expert witness is governed by Section 2034 of the Code of Civil Procedure.

SEC. 4. Section 68092.5 of the Government Code is amended to read:

68092.5. (a) A party requiring testimony before any court, tribunal, or arbiter in any civil action or proceeding from any expert witness, other than a party or employee of a party, who is either, (1) an expert described in paragraph (2) of subdivision (a) of Section 2034 of the Code of Civil Procedure, (2) a treating physician and surgeon or other treating health care practitioner who is to be asked to express an opinion during the action or proceeding, or (3) an architect, professional engineer, or licensed land surveyor who was involved with the original project design or survey for which he or she is asked to express an opinion within his or her expertise and relevant to the action or proceeding, shall pay the reasonable and customary hourly or daily fee for the actual time consumed in the examination of that witness by any party attending the action or proceeding. The hourly or daily fee shall not exceed the fee charged the party who retained the expert except where the expert donated his or her services to a charitable or other nonprofit organization.

The party requiring the attendance shall either accompany the service of the subpoena or notice with a tender of the expert's fee based on the anticipated length of time the expert is required to remain at such place pursuant to the notice or subpoena or tender that fee at the required time of appearance. The expert's fee shall be delivered to the attorney for the party designating the expert. If the appearance of the expert takes longer than anticipated, the party serving the subpoena or notice shall pay the balance of the expert's fee within five days of receipt of an itemized statement from the expert. The party designating the expert is responsible for any fee charged by the expert for preparing for the testimony and for traveling to the place of the civil action or proceeding, as well as for any travel expenses of the expert, unless otherwise determined by the court.

(b) The service of a proper subpoena or notice accompanied by the tender of the expert witness fee described in subdivision (a) is effective to require the party employing or retaining the expert to produce the expert for testimony. If the party serving the notice or

subpoena fails to tender the expert's fee under subdivision (a), the expert shall not be required to appear at that time unless the parties stipulate otherwise.

(c) If a party requiring the appearance by subpoena or notice of another party's expert witness under this subdivision deems that the hourly or daily fee of that expert for providing testimony is unreasonable, that party may move for an order setting the compensation of that expert. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. Notice of this motion shall also be given to the expert.

The court shall set the fee of the expert for providing testimony if it determines that the fee demanded by that expert is unreasonable.

(d) In the event the proceeding at which the expert witness has been notified his or her attendance is required is continued or canceled in advance of the time for which it is scheduled, such witness shall be notified of the continuance or cancellation by the party requiring his or her attendance by the quickest and most reliable means of giving notice under the circumstances. In the event such party fails to give notice as required by this subdivision, then the expert witness shall be entitled to receive the compensation specified in subdivision (a) of this section, notwithstanding his or her failure to give any testimony.

(e) An express contract entered into between a person and the party requesting or requiring the person to testify, relating to compensation, shall be enforceable and shall prevail over the provisions of this section.

(f) The deposition of an expert witness is governed by Section 2034 of the Code of Civil Procedure.

SEC. 5. Section 2 of this bill incorporates amendments to Section 2034 of the Code of Civil Procedure proposed by both this bill and AB 3136. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1991, (2) each bill amends Section 2034 of the Code of Civil Procedure, and (3) this bill is enacted after AB 3136, in which case Section 1 of this bill shall not become operative.

SEC. 6. Section 4 of this bill incorporates amendments to Section 68092.5 of the Government Code proposed by both this bill and AB 3136. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1991, (2) each bill amends Section 68092.5 of the Government Code, and (3) this bill is enacted after AB 3136, in which case Section 3 of this bill shall not become operative.

CHAPTER 772

An act to amend Sections 12640.04 and 12640.09 of, and to add Section 12640.091 to, the Insurance Code, relating to insurance.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 12640.04 of the Insurance Code is amended to read:

12640.04. In addition to the paid-in capital and surplus provided in Section 12640.03, each mortgage guaranty insurer shall establish a contingency reserve after establishment of the unearned premium reserve. There shall be an annual contribution to the contingency reserve which in the aggregate shall be the greater of either 50 percent of the earned premium or the policyholders surplus required to be established under Section 12640.05 divided by 10. The annual contributions to the contingency reserve made during each calendar year shall be maintained for a period of 120 months, except that withdrawals may be made by the insurer in any given year to the extent by which incurred losses exceed 35 percent of earned premium or as otherwise permitted by the commissioner.

SEC. 2. Section 12640.09 of the Insurance Code is amended to read:

12640.09. (a) A mortgage guaranty insurer shall limit its coverage for the class of insurance defined in paragraphs (1) and (3) of subdivision (a) of Section 12640.02 to a maximum of a net of 25 percent at risk of the entire indebtedness to the insured, or in lieu thereof, a mortgage guaranty insurer may elect to pay the entire indebtedness to the insured and acquire title to the authorized real estate security.

(b) A mortgage guaranty insurer shall limit its coverage for the class of insurance defined in paragraph (2) of subdivision (a) of Section 12640.02, to a maximum of a net of 25 percent of risk of the combined indebtedness of all existing mortgage loan amounts secured by all liens or charges on the real estate. In lieu thereof, a mortgage guaranty insurer may elect to pay the entire indebtedness to the insured and acquire title to the authorized real estate security.

(c) Notwithstanding subdivision (a) or (b), a mortgage guaranty insurer may extend its coverage for the class of insurance defined in paragraphs (1), (2), and (3) of subdivision (a) of Section 12640.02 beyond the limits established by subdivisions (a) and (b) of this section, provided the excess is insured by a contract of reinsurance.

(d) (1) Notwithstanding any provision of law to the contrary, mortgage guaranty insurance or reinsurance may be ceded by contract, provided that the assuming insurer is either of the following:

(A) A mortgage guaranty insurer, which may be under common control with the ceding mortgage guaranty insurer, but which does not own, and is not owned by, in whole or in part, directly or indirectly, the ceding mortgage guaranty insurer.

(B) A nonaffiliated insurer or reinsurer which writes any type or types of insurance or reinsurance and which meets the following requirements:

(i) Has paid-in capital and paid-in surplus totaling at least thirty-five million dollars ($35,000,000).

(ii) Derives, on an annual basis, at least 50 percent of its premium income from reinsurance; or, alternatively, derives at least twenty-five million dollars ($25,000,000) of premium income per year from reinsurance.

(iii) Establishes and maintains its share of the reserve liabilities required by Section 12640.16 if licensed in this state, or establishes, maintains, and funds in accordance with Section 922.4 or Section 922.5, its share of the reserve liabilities required by Section 12640.16 if not licensed in this state.

(iv) Establishes and maintains its share of an amount equal to the greater of either the reserve liabilities required by Section 12640.04 or the policyholders surplus required by Section 12640.05 in a segregated trust which meets the requirements of Section 12640.091.

(2) Nothing herein contained shall be deemed to permit the assuming insurer or reinsurer to directly write mortgage guaranty insurance.

(3) Any assuming insurer or reinsurer and the ceding mortgage guaranty insurer shall establish and maintain in the aggregate the reserves required by Sections 12640.04 and 12640.16.

SEC. 3. Section 12640.091 is added to the Insurance Code, to read:

12640.091. (a) In order to qualify as a segregated trust under subdivision (d) of Section 12640.09, a trust shall meet all of the following requirements:

(1) Be established by an insurer or reinsurer for the benefit of the ceding mortgage guaranty insurer.

(2) Have the trust assets located in the mortgage guaranty insurer's state of domicile, in the State of California, or in another jurisdiction which is approved by the commissioner.

(3) Be funded by assets permitted by Article 3 (commencing with Section 1170) of Chapter 2 of Part 2 of Division 1, or by tax and loss bonds purchased pursuant to Section 832(e) of the Internal Revenue Code.

(4) Be subject to withdrawals only by, and under the control of, the ceding mortgage guaranty insurer provided that written notification with adequate supporting documentation is filed with the commissioner within 15 calendar days after the withdrawal.

(5) Consent to and be subject to examination by the commissioner.

(6) Appoint an agent for service of process in the State of California and file the appointment with the commissioner within 30

calendar days after the effective date.

(b) The trust agreement and any amendments to it shall be filed with the commissioner within 30 calendar days after its effective date. The commissioner may order a prospectively applicable modification, correction, disapproval, or termination of any trust arrangement, agreement, or amendment which fails to meet the requirements set forth in this chapter. Any order of the commissioner shall be in writing and shall specify the reasons for the modifications, corrections, disapproval, or termination.

(c) The ceding mortgage guaranty insurer shall make quarterly, annual, and interim reports on the segregated trust account at the time as they are required or requested by the commissioner on forms prescribed by the commissioner.

(d) The commissioner may adopt rules and regulations necessary to carry out the provisions of this section including appropriate rules or regulations to assure that the trust assets are legally segregated, reasonably liquid, secure, and accessible.

CHAPTER 773

An act to amend Section 4291.1 of the Public Resources Code, relating to forest fires.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 4291.1 of the Public Resources Code is amended to read:

4291.1. (a) Notwithstanding Section 4021, a violation of Section 4291 is an infraction punishable by a fine of not less than one hundred dollars ($100), nor more than five hundred dollars ($500). If a person is convicted of a second violation of Section 4291 within five years, that person shall be punished by a fine of not less than two hundred fifty dollars ($250), nor more than five hundred dollars ($500). If a person is convicted of a third violation of Section 4291 within five years, that person is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars ($500). If a person is convicted of a third violation of Section 4291 within five years, the department may perform or contract for the performance of work necessary to comply with Section 4291 and may bill the person convicted for the costs incurred, in which case the person convicted, upon payment of those costs, shall not be required to pay the fine. If a person convicted of a violation of Section 4291 is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.

(b) If a person convicted of a violation of Section 4291 produces in court verification prior to imposition of a fine by the court, that the condition resulting in the citation no longer exists, the court may reduce the fine imposed for the violation of Section 4291 to fifty dollars ($50).

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 774

An act to amend Section 7028.7 of the Business and Professions Code, relating to contractors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 7028.7 of the Business and Professions Code is amended to read:

7028.7. If upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor within this state without having a license in good standing to so act or engage, and the person is not otherwise exempted from this chapter, the registrar shall issue a citation to that person. Each citation shall be in writing and shall describe with particularity the basis of the citation. Each citation shall contain an order of abatement and an assessment of a civil penalty in an amount not less than two hundred dollars ($200) nor more than four thousand five hundred dollars ($4,500). With the approval of the Contractors' State License Board the registrar shall prescribe procedures for the issuance of a citation under this section. The Contractors' State License Board shall adopt regulations covering the assessment of a civil penalty which shall give due consideration to the gravity of the violation, and any history of previous violations. The sanctions authorized under this section shall be separate from, and in addition to, all other remedies either civil or criminal.

SEC. 2. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate the collection of civil penalties assessed against unlicensed contractors as soon as possible, it is necessary that this bill go into immediate effect.

CHAPTER 775

An act to amend Section 71.8 of, and to add Sections 86, 87, and 88 to, the Harbors and Navigation Code, relating to harbors.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 71.8 of the Harbors and Navigation Code is amended to read:

71.8. (a) Any contract or agreement for a transfer pursuant to Section 70 or a loan pursuant to Section 71.4, for which gross revenues of a small craft harbor are made the security for repayment shall include, but is not limited to, provisions requiring the governing body of the city, county, or district to perform all the following:

(1) Punctually pay all installments of principal and interest on money owed to the state.

(2) Continuously operate in an efficient and economical manner all small craft harbor facilities acquired, constructed, improved, or completed in full or in part as a result of transfers or loans by the state.

(3) Make all repairs, renewals, and replacements necessary to the efficient operation of the small craft harbor facilities and to keep the facilities in good repair at all times.

(4) Preserve and protect the security interest of the state in all respects by procuring insurance on the facilities in an amount and of the type approved by the department.

(5) Subject to subdivision (c), periodically fix, prescribe, and collect fees, rentals, or other charges for services and facilities of the small craft harbor facilities sufficient to produce gross revenues adequate for payment of the following amounts in the order set forth:

(A) All installments of principal and interest on money owed the state as they come due.

(B) All expenses of operation, maintenance, and repair of the small craft harbor facilities.

(C) Any additional sums as may be required by the department for any sinking fund, reserve fund, or other special fund established for the further security of the loan or transfer or as a depreciation or other charge in connection with the small craft harbor facilities.

(6) Repay loans with regard to the revenue-producing features, as determined by the department, constructed under the loan over a period not to exceed 30 years.

(7) Repay loans with regard to the non-revenue-producing features, as determined by the department, constructed under the loan over a period not to exceed 50 years.

(b) The department may require the contract or agreement to include a requirement that installments of principal and interest on money owed the state shall be paid from gross revenues prior to any other expenditures from those revenues. However, if the department is satisfied that the city, county, or district has sufficient financial resources to fully repay the loan without the necessity of priority payment, that requirement may be waived, in which case the contract or agreement shall provide that installments of principal and interest on money owed the state may be repaid under the terms and conditions mutually agreed upon and specifically set forth in the contract or agreement. No loan of funds shall be made to any city, county, or district unless the loan is approved by the department as conforming to the policies established by the department. The contracts and agreements shall not be effective until approved by the Department of General Services for legality, form, and completeness.

(c) The fees for the use of launching ramps in a small craft harbor shall not exceed the sum of the following:

(1) The costs of operation and maintenance of the launching ramp and related harbor facilities, including, but not limited to, access to the ramp from the shore and the ocean.

(2) The prorated capital costs of that portion of the facility which is determined by the governing body of the small craft harbor or boating facility to be necessary to pay amounts specified in paragraph (5) of subdivision (a).

(d) If the city, county, or district defaults on the payment of money owed the state, or otherwise fails to perform in accordance with the terms and conditions of the contract or agreement, the state shall forthwith recover the defaulted loan and the department may assume the operation and maintenance of the harbor or facility or enter into one or more contracts for its operation and maintenance.

SEC. 2. Section 86 is added to the Harbors and Navigation Code, to read:

86. (a) The local public agency shall certify to the department that for any small craft harbor or boating facility project which is, or has been, funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3, or a harbor constructed with funds from the State Lands Commission from tidelands oil revenues, adequate restroom and sanitary facilities, parking, refuse disposal, walkways, and other necessary shoreside facilities sufficient for the use and operation of all vessels using the harbor or facility are provided or provide written findings showing why the facility cannot certify to these conditions.

(b) No city, county, or district, which has received or is receiving

money under this division for the construction or improvement of small craft harbors which provides facilities for the operation of commercial fishing vessels registered pursuant to Article 4 (commencing with Section 7880) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, shall prohibit the commercial operation and use of those facilities by commercial passenger fishing vessels of the same or similar displacement, which are licensed pursuant to Section 7920 of the Fish and Game Code, or the use by private recreational vessels unless otherwise expressly provided by law, unless the city, county, or district provides, elsewhere in the same harbor, alternative, equivalent facilities available at comparable cost for the commercial operation and use of commercial passenger fishing vessels and private recreational vessels or unless the city, county, or district adopts written findings showing why the existing facility cannot accommodate the operation of commercial fishing vessels, including commercial passenger fishing vessels, or private recreational vessels and why the facility cannot be modified to do so or why alternative, equivalent facilities cannot be provided in the same harbor to accommodate those operations. This subdivision does not require a facility to accept an application for the operation of an additional commercial passenger fishing boat at that facility if the harbor provides alternative, equivalent, adequate, safe facilities at comparable cost for the operation and use of commercial passenger fishing boats or if accommodations for the operation of the additional commercial passenger fishing boat are not reasonably available at the facility under the contract or agreement.

For the purposes of this subdivision, an alternative, equivalent facility in the same harbor shall provide, at comparable cost, adequate restroom and sanitary facilities, parking, refuse disposal, walkways, power and water service, and other shoreside facilities and equivalent docks, water channels, navigation aids, and weather protection, including, but not limited to, breakwaters, which are equivalent to the facility funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3.

(c) Any loan, grant, contract or agreement, or plan funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3 for any small craft harbor or boating facility project shall provide for construction, development, or improvement of facilities to substantially meet the provisions of subdivisions (a) and (b) and to provide vehicular access roads to the harbor or facility, as recommended by the Department of Transportation pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, unless the reasons for not meeting those provisions and recommendations are set forth in the contract or agreement with the department, or an addendum thereto.

(d) During the term of any existing or new loan contract made pursuant to Section 71.4 or 76.3, or any existing or new contract or agreement pursuant to Section 70, 70.2, or 70.8, the department shall supervise and monitor compliance with subdivisions (b) and (c) and

the operation and maintenance of the harbor or facility to assure that the planning, construction, development, or improvement fully complies with this section and the contract or agreement terms and conditions.

(e) For the purposes of this chapter and Chapter 2 (commencing with Section 70), any harbor or facility which is the subject of a contract or agreement as described in subdivision (d), is under the jurisdiction of the department.

SEC. 3. Section 87 is added to the Harbors and Navigation Code, to read:

87. The department shall give consideration for funding the planning, construction, development, or improvement of small craft harbors to projects which are financially feasible and which make existing small craft harbors, which are subject to the jurisdiction of the department, substantially meet the provisions of Section 86.

SEC. 4. Section 88 is added to the Harbors and Navigation Code, to read:

88. A small craft harbor or boating facility funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3 is not liable for any damages which occur on a vessel using those facilities or pursuant to operation of the vessel, other than on the facilities of the harbor or boating facility. This section does not provide immunity from liability for a small craft harbor or boating facility for their negligent acts.

SEC. 5. (a) It is the intent of the Legislature that funds made available pursuant to paragraph (2) of subdivision (a) of Section 5096.365 of the Public Resources Code, as added by the California Park, Recreation, and Wildlife Enhancement Act of 1990 (AB 145 of the 1989–90 Regular Session), shall be available for appropriation for the purposes of this act.

(b) Section 4 of this act shall not become operative unless the act described in subdivision (a) is approved by the voters at the November 6, 1990, general election.

SEC. 6. (a) The Legislature finds and declares that a need exists in Bodega Bay in Sonoma County to provide safe facilities and appropriate services for commercial passenger fishing vessels.

(b) If Sonoma County applies for a small craft harbor construction loan, the Department of Boating and Waterways shall give first priority, through its loan application and budgetary process, to providing loan funds from the California Park, Recreation, and Wildlife Enhancement Act of 1990 (AB 145 of the 1989–90 Regular Session) for a sportfishing facility located in Bodega Bay, if that bond measure is approved by the voters at the November 6, 1990, general election.

(c) If Sonoma County applies for a small craft harbor construction loan, the county shall submit a report to the Department of Boating and Waterways that indicates the project is financially feasible and meets feasible engineering criteria. The Department of Boating and Waterways shall give first priority pursuant to subdivision (b) to Sonoma County until November 6, 1995. Both of the following

conditions shall apply to any small craft harbor construction loan made to Sonoma County:

(1) It shall be made in conformance with Section 71.4 of the Harbors and Navigation Code, and be at the prevailing interest rate charged by the department for small craft harbor construction loans.

(2) Funds shall be disbursed only after all applicable permits have been received.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 776

An act to amend Section 828 of, and to add Section 828.1 to, the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 828 of the Welfare and Institutions Code is amended to read:

828. (a) Except as provided in Sections 389 and 781 of this code or Section 1203.45 of the Penal Code, any information gathered by a law enforcement agency relating to the taking of a minor into custody may be disclosed to another law enforcement agency, including a school district police or security department, or to any person or agency which has a legitimate need for the information for purposes of official disposition of a case. When the disposition of a taking into custody is available, it shall be included with any information disclosed.

A court shall consider any information relating to the taking of a minor into custody, if the information is not contained in a record which has been sealed, for purposes of determining whether adjudications of commission of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 of the Penal Code or to deny probation.

(b) When a law enforcement agency has been notified pursuant to Section 1155 that a minor has escaped from a secure detention facility, the law enforcement agency shall release the name of, and any descriptive information about, the minor to a person who specifically requests this information. The law enforcement agency

may release the information on the minor without a request to do so if it finds that release of the information would be necessary to assist in recapturing the minor or that it would be necessary to protect the public from substantial physical harm.

SEC. 2. Section 828.1 is added to the Welfare and Institutions Code, to read:

828.1. (a) While the Legislature reaffirms its belief that juvenile criminal records, in general, should be confidential, it is the intent of the Legislature in enacting this section to provide for a limited exception to that confidentiality in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases the dissemination of juvenile criminal records be as limited as possible, consistent with the need to work with a student in an appropriate fashion, and the need to protect potentially vulnerable school staff and other students over whom the school staff exercises direct supervision and responsibility.

(b) Notwithstanding subdivision (a) of Section 828, a school district police or security department may provide written notice to the superintendent of the school district that a minor enrolled in a public school maintained by that school district, in kindergarten or any of grades 1 to 12, inclusive, has been found by a court of competent jurisdiction to have illegally used, sold, or possessed a controlled substance as defined in Section 11007 of the Health and Safety Code or to have committed any crime listed in paragraphs (1) to (15), inclusive, or paragraphs (17) to (19), inclusive, of subdivision (b) of Section 707. The information may be expeditiously transmitted to any teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the minor, who the superintendent or his or her designee, after consultation with the principal at the school of attendance, believes needs this information to work with the student in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

(c) Any information received by a teacher, counselor, or administrator pursuant to this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher, counselor, or administrator. An intentional violation of the confidentiality provisions of this section is a misdemeanor, punishable by a fine not to exceed five hundred dollars ($500).

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the

California Constitution.

CHAPTER 777

An act to add Section 1170.73 to the Penal Code, relating to controlled substances.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 1170.73 is added to the Penal Code, to read:

1170.73. Upon conviction of a felony violation of Section 11377, 11378, or 11378.5 of the Health and Safety Code, the court shall consider the quantity of controlled substance involved in determining whether to impose an aggravated term under subdivision (b) of Section 1170.

CHAPTER 778

An act to amend Sections 36991, 36992, 38733, 38735, 38895.2, 61932, and 61933 of, to amend the heading of Article 27 (commencing with Section 38731) of Chapter 5 of Division 15 of, to add Section 36809 to, and to repeal Section 38882 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 36809 is added to the Food and Agricultural Code, to read:

36809. Federal nutritional labeling regulations apply to all frozen dairy products, except nutritional labeling provided for any frozen dairy product mix or any frozen dairy product dispensed by a soft serve establishment, shall state, on the basis of weight, the serving size upon which nutritional declarations are based.

SEC. 2. Section 36991 of the Food and Agricultural Code is amended to read:

36991. Frozen yogurt, lowfat frozen yogurt, and nonfat frozen yogurt are frozen dairy products. They shall be made from milk, with or without added milk solids, flavoring, or seasoning, which has been pasteurized and afterwards fermented by one or more strains of Lactobacillus bulgaricus, including yogurt strains, Streptococcus thermophilus and Lactobacillus acidophilus. They shall not be

pasteurized following fermentation. Fruits may be added before or after the mix is pasteurized and cultured. Such product may contain safe and suitable stabilizers or emulsifiers at a level necessary to achieve the desired function. It shall have a titratable acidity of not less than 0.5 percent expressed as lactic acid, except when flavoring is added that contains no fruit or fruit flavoring the titratable acidity may be reduced to not less than 0.30 percent expressed as lactic acid; it shall contain not more than 10 coliform bacteria per gram; it shall contain not more than 10 colonies per gram each of molds, yeasts, and other fungi; and it shall be free of any other objectionable bacteria which may impair the quality of the product. The product shall weigh not less than 4.0 pounds per gallon.

SEC. 3. Section 36992 of the Food and Agricultural Code is amended to read:

36992. Frozen yogurt shall contain not less than 3.5 percent milk fat. Lowfat frozen yogurt shall contain not more than 2 percent milk fat. Nonfat frozen yogurt shall contain a maximum of 0.25 percent milk fat. The milk fat content of frozen fruit yogurt may be reduced to not less than 2.8 percent milk fat, and the milk fat content of lowfat frozen fruit yogurt may be reduced to not less than 1.3 percent milk fat.

SEC. 4. The heading of Article 27 (commencing with Section 38731) of Chapter 5 of Division 15 of the Food and Agricultural Code is amended to read:

Article 27. Yogurt

SEC. 5. Section 38733 of the Food and Agricultural Code is amended to read:

38733. When offered for sale, yogurt, lowfat yogurt, and nonfat yogurt shall be labeled, on a principal panel of the container, with the name of the product, the name and address of the manufacturer or distributor, and a statement whether it is made from pasteurized milk or certified raw milk. If the name and address of the distributor are used, the factory license number of the manufacturer shall also appear on the carton or container. Yogurt shall be labeled "Yogurt". Lowfat yogurt shall be labeled "Lowfat Yogurt". Nonfat yogurt shall be labeled "Nonfat Yogurt".

SEC. 6. Section 38735 of the Food and Agricultural Code is amended to read:

38735. Yogurt, lowfat yogurt, or nonfat yogurt, in liquid or nonliquid form, and with or without fruit added, shall be made from market milk and may be labeled grade A.

SEC. 7. Section 38882 of the Food and Agricultural Code is repealed.

SEC. 8. Section 38895.2 of the Food and Agricultural Code is amended to read:

38895.2. "Lactose reduced" may be included in the nomenclature of the product if there has been conversion of

sufficient amounts of lactose to glucose or galactose so that the remaining lactose is less than 30 percent of the original lactose of the dairy product. Lactose reduced dairy products shall meet all other compositional standards for the products except that the minimum solids-not-fat content for lowfat milk, flavored lowfat milk, and extra light milk labeled as "lactose reduced" shall be 8.7 percent.

SEC. 9. Section 61932 of the Food and Agricultural Code is amended to read:

61932. Class 1 comprises:

(a) Any market milk, market skim milk, half-and-half, or concentrated milk that is supplied to consumers in the fluid state, with the exception of the following:

(1) (A) Any UHT market milk product, as defined in Chapter 9 (commencing with Section 39701) of Part 3 of Division 15, which is sold for use outside the state.

(B) Any market milk products which are ultrapasteurized and sold for use outside the 48 contiguous states in the United States.

(2) Any market half-and-half which is ultrapasteurized and packaged in hermetically sealed containers.

(3) Any market half-and-half which is packaged in presterilized containers under aseptic conditions to meet the marketing requirements for these products in states other than this state. However, this paragraph does not authorize the sale within this state of any milk product as a UHT product unless the product meets the standards and requirements for UHT products specified in Chapter 9 (commencing with Section 39701) of Part 3 of Division 15.

(4) Any market milk, market skim milk, or market cream which is used in the manufacture of yogurt which is directly sold for use in states other than this state.

(b) Any market milk, market skim milk, or market cream which is used in any other milk product, or products resembling milk products, in which the use of market milk, or any components or derivatives of market milk, is required by, or pursuant to, this code, except any product defined in Section 61933 as class 2.

(c) Any market milk, market skim milk, market cream, market milk fat, or market milk solids-not-fat which is used in the standardizing or fortifying of any milk product which is defined in this section as class 1.

(d) Any market milk, market skim milk, or market cream which is used in any product not otherwise classified, which is required by any regulations adopted by the director pursuant to Article 2 (commencing with Section 36631) of Chapter 1 of Part 3 of Division 15 to be made from market milk or any components or derivatives of market milk.

(e) Any market milk, market skim milk, market cream, market milk fat, or market milk solids-not-fat used in any filled product or imitation milk product, when the product imitated or resembled, is defined in this section as class 1.

SEC. 10. Section 61933 of the Food and Agricultural Code is

amended to read:

61933. Class 2 comprises any market milk, market skim milk, or market cream used in the manufacture of market cream, homogenized market cream, sour cream, sour cream dressing, sour half-and-half or light sour cream, uncreamed, creamed, or partially creamed cottage cheese, soft fresh cheese (fromage frais), and buttermilk. Class 2 also comprises any market milk, market skim milk, or market cream used in the manufacture of any product for which a definition and standard is prescribed in Division 15 (commencing with Section 32501), except any such product which is included in class 1, class 3, class 4a, or class 4b.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 779

An act to amend Section 5564.7 of the Welfare and Institutions Code, relating to traumatic head injury.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 5564.7 of the Welfare and Institutions Code is amended to read:

5564.7. This chapter shall remain in effect until January 1, 1994, and as of that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

CHAPTER 780

An act to add Section 8692.5 to the Fish and Game Code, relating to fishing.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 8692.5 is added to the Fish and Game Code, to read:

8692.5. Not more than 1,250 fathoms (7,500 feet) of gill net or trammel net shall be fished in combination each day from any vessel for rockfish or lingcod in ocean waters.

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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 781

An act to add Division 16.5 (commencing with Section 161000) to the Public Utilities Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Division 16.5 (commencing with Section 161000) is added to the Public Utilities Code, to read:

DIVISION 16.5. STATE TRANSPORTATION CORRIDOR PRESERVATION

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

161000. (a) The Legislature finds and declares as follows:

(1) Transportation is vital to the state's economy, and a complete transportation system is essential in times of disaster.

(2) Transportation corridors should be protected from uses which are incompatible with transportation requirements.

(3) Important potential transportation corridors are being developed for other purposes.

(b) It is, therefore, the intent of the Legislature in enacting this division to vest in the Department of Transportation responsibility for implementing a program of transportation right-of-way protection and conservation within essential transportation corridors by acquiring and holding transportation corridor lands which would otherwise be lost to public use.

(c) It is the further intent of the Legislature in enacting this division to preserve land which is needed or will be needed for transportation corridors consistent with applicable environmental protection laws and regulations.

161001. As used in this division, "commission" means the California Transportation Commission.

161002. As used in this division, "department" means the Department of Transportation.

161003. As used in this division, "secretary" means the Secretary of the Business, Transportation and Housing Agency.

161004. As used in this division, "transportation corridor" means an area or one or more parcels of land that meets any of the following requirements:

(a) Designated by the commission as necessary under the adopted state transportation improvement plan.

(b) Designated by a transportation planning agency, county transportation commission, or the San Diego County Metropolitan Transit Development Board as necessary under the adopted regional transportation implementation plan.

(c) Within the adopted route of a state highway.

(d) Within the adopted route of a county or city highway or exclusive mass transit guideway which is consistent with the county or city general plan.

(e) Designated by the commission as being within one of two or more proposed routes or alignments for a state highway.

CHAPTER 2. DUTIES AND FUNCTIONS

161020. The department may apply for and accept federal grants and receive gifts, donations, subventions, rents, royalties, and other financial support from public and private sources for purposes of this division.

161021. The department may serve as a repository for lands located within a transportation corridor where the preservation of those lands is required by the department or an agency of local government to meet its transportation policies and objectives, and may accept a dedication of fee title, easements, development rights, or other interest in lands for this purpose.

161022. On an annual basis, or as may be otherwise required by

the secretary, the department shall report to the secretary regarding privately owned lands determined to have special significance for purposes of preserving a transportation corridor and which might be the subject of an exchange for other state lands. Specific privately owned land shall be included in the report only with the consent of the owner.

161023. The department may acquire land or any interest therein for purposes of this division pursuant to procedures applicable to the acquisition of land by the department or the commission. If other means of acquisition have not been successful, the department may exercise the power of eminent domain for these purposes. The power of eminent domain may only be exercised to acquire land which is necessary for construction of the relevant highway route or guideway alignment, and shall not include land for rest stops or other ancillary uses.

161024. (a) The department may sell, rent, lease, exchange, or otherwise transfer any land or interest therein acquired under this division pursuant to an implementation plan adopted by the department. Any lease entered into under this division shall be for not more than 20 years.

(b) Except as otherwise provided by law or by agreement, the proceeds of the sale, rental, lease, exchange, or transfer of land or interest therein, including any rent or other income from land held by the department, shall be deposited in the State Highway Account in the State Transportation Fund.

161025. The department shall develop and implement procedures to ensure that land acquisition, leasing, options to purchase, disposal, and other transactions in land under this division are carried out efficiently and equitably and with proper notice to the public.

161026. (a) Commencing January 2, 1993, and every third year thereafter, the department shall prepare and submit to the secretary a report describing progress in achieving the objectives of this division. The report shall include, but not be limited to, both of the following:

(1) An evaluation of the effectiveness of the department's programs in preserving and acquiring transportation corridors.

(2) Identification of additional funding, legislation, or other resources required to more effectively carry out the objectives of this division.

(b) The secretary shall, after reviewing and commenting on the report, transmit the report to the Governor and Legislature.

161027. (a) The department shall cooperate with federal, state, and local public agencies in ensuring the reservation of lands for transportation purposes.

(b) If any state or local public agency is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire land for transportation purposes, the department may acquire and hold that land for subsequent conveyance to the public

agency. The department may provide technical assistance to aid public agencies in completing those acquisitions and related functions.

161028. (a) The department shall not hold any land acquired under this division for more than 20 years from the time of acquisition. A state or local public agency may acquire the land at any time during this period for transportation purposes. The acquisition price to a state or local public agency shall be based upon the cost of acquisition under this division plus administrative and management costs in preserving the land. The payment of this acquisition price shall be either monetary or in department-approved land of an equivalent value, or a combination thereof. No land acquired under this section shall be disposed of under Section 11011.1 of the Government Code.

(b) If, at the expiration of a 20-year period, no public agency is willing or able to acquire the land, the department shall dispose of the land at fair market value without restriction on its subsequent use under this division. All proceeds of a disposition under this subdivision shall be deposited in the State Highway Account in the State Transportation Fund.

161029. If the department acquires any land prior to the adoption of a specific route or alignment by the commission, the commission shall disregard that land in the study and adoption of routes and alignments.

161030. Notwithstanding any other provision of law, there is hereby appropriated from the State Highway Account in the State Transportation Fund to the department the amount of the proceeds of all sales, leases, and rentals, on and after January 1, 1991, of land acquired by the department for highway purposes, until a total of twenty-five million dollars ($25,000,000) has been so appropriated, to be expended by the department for the purposes of this division.

161031. The department shall comply with applicable environmental protection laws and regulations when taking any action authorized by this division.

CHAPTER 782

An act to add Chapter 14 (commencing with Section 8899.10) to Division 1 of Title 2 of the Government Code, relating to earthquake research, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Chapter 14 (commencing with Section 8899.10) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 14. EARTHQUAKE RESEARCH EVALUATION CONFERENCE AND FIVE-YEAR STATEWIDE RESEARCH PLAN

8899.10. The Legislature finds and declares all of the following:

(a) (1) As demonstrated by the California earthquake of October 17, 1989, the citizens of California live under the constant shadow of death, personal injury, and property damage from earthquakes.

(2) During the same year as the California earthquake of October 17, 1989, there were over 15,000 earthquakes of varying magnitude recorded in this state.

(3) A cohesive plan to optimize current and emerging earthquake research for the benefit of the citizens of California does not exist.

(4) A cohesive plan to optimize current and emerging earthquake research is critical to protect the health and safety of the citizens of California.

(b) It is therefore appropriate for the State of California to fund an Earthquake Research Evaluation Conference for the purpose of critiquing existing and emerging technologies for earthquake research and recommending a comprehensive plan for earthquake research in California.

The findings of the Earthquake Research Evaluation Conference should be used by the Seismic Safety Commission, in collaboration with the California Council on Science and Technology, the Office of Competitive Technology in the Department of Commerce, and the Division of Mines and Geology in the Department of Conservation, as the basis for finalizing and implementing a five-year earthquake research plan for the State of California.

8899.11. There shall be an Earthquake Research Evaluation Conference (EREC) for the purposes set forth in this chapter.

8899.12. (a) Participants in the EREC shall be selected by the Seismic Safety Commission in collaboration with the California Council on Science and Technology, the Division of Mines and Geology in the Department of Conservation, and the Office of Competitive Technology in the Department of Commerce. EREC participants shall include, but not be limited to, representatives from all of the following:

(1) Research universities.

(2) Major professional organizations.

(3) State agencies.

(4) Federal agencies.

(5) Private industry.

(b) The organization and management of the EREC shall be the responsibility of the Seismic Safety Commission, in collaboration with the California Council on Science and Technology, the Division

of Mines and Geology, and the Office of Competitive Technology.

8899.13. (a) The purpose of the EREC shall be to develop and present to the Seismic Safety Commission a strategy for earthquake research in California which will identify the state seismic safety needs, with particular attention given to research likely to bring about a significant reduction of loss of life and property damage and improved ability for economic recovery. The research shall include, but not be limited to, the following four research categories:

(1) Understanding the causes, prediction of, and nature of earthquakes.

(2) Understanding and mitigating geotechnical and structural hazards.

(3) Understanding the social and economic effects of earthquakes.

(4) Policies and strategies for mitigation and recovery.

(b) Included in this strategy shall be all of the following:

(1) The type of research.

(2) The priorities for research.

(3) The sources of funding.

(4) The state's role in coordinating and facilitating seismic research in California.

8899.14. The Seismic Safety Commission, in collaboration with the California Council on Science and Technology, the Division of Mines and Geology, and the Office of Competitive Technology, shall provide structure for the EREC by submitting a proposed five-year plan for review and consideration. Included with this submission shall be an appropriate schedule and structure for reviewing and critiquing existing and emerging technologies for earthquake research. The EREC shall review, critique, and revise the proposed plan submitted by the Seismic Safety Commission, as appropriate to the needs of California. The EREC shall present its findings to the Seismic Safety Commission.

8899.15. The Seismic Safety Commission shall develop a final five-year statewide earthquake research plan as part of its five-year hazard reduction plan. The findings made by the EREC shall be incorporated into the plan.

The plan shall contain appropriate strategies to receive additional federal funding in order to implement the plan and Section 8899.16.

8899.16. (a) In order to expedite the development of emerging technologies and to encourage rapid technology transfer, grant awards shall be made, for the 1990–91 fiscal year, to not more than five California companies to conduct feasibility studies which will evaluate new, innovative technologies to improve the understanding of impending earthquakes and their effects.

(b) The Division of Mines and Geology in the Department of Conservation shall implement this section with the advice of the Office of Competitive Technology in the Department of Commerce.

(c) In subsequent years, the Legislature may fund additional studies in accordance with the five-year earthquake research plan developed pursuant to Section 8899.15.

(d) This section shall be implemented only to the extent that funds are available for its implementation.

SEC. 2. The Seismic Safety Commission shall not be required to conduct the Earthquake Research and Evaluation Conference, as described in Section 1 of this act, unless, and only to the extent that, funds become available for this purpose.

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

In order to achieve seismic safety through implementation of the use of current and emerging technologies and to fill gaps in scientific and engineering capabilities needed to further mitigate earthquake hazards, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 783

An act to add Chapter 6 (commencing with Section 1320) to Division 6 of the Military and Veterans Code, relating to veterans, and making an appropriation therefor.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Chapter 6 (commencing with Section 1320) is added to Division 6 of the Military and Veterans Code, to read:

CHAPTER 6. S.S. BATON ROUGE VICTORY MEMORIAL PLAQUE

1320. (a) The construction is hereby authorized of a memorial plaque on the grounds of the State Capitol for the six crew members of the S.S. Baton Rouge Victory who were lost at sea when that United States cargo vessel was sunk by hostile action on August 23, 1966, in the Lung Tau Channel while enroute to Saigon, South Vietnam, carrying United States military supplies.

(b) For purposes of this section, the grounds of the State Capitol is the property in the City of Sacramento bounded by 9th, 15th, "L," and "N" Streets.

1321. The Department of General Services, after consultation with the Office of Historic Preservation of the Department of Parks and Recreation and the Historic State Capitol Commission, shall have final approval of the design and the specific location of the site for the memorial plaque. The memorial plaque shall not be located within 100 yards of the Vietnam Veterans Memorial.

1322. (a) Funds for the construction of the memorial plaque

shall be provided through private contributions and shall be received by the Department of General Services for that purpose.

(b) The S.S. Baton Rouge Victory Memorial Plaque Account is hereby established in the General Fund. All donations received by the Department of General Services pursuant to subdivision (a) shall be deposited in the account. Notwithstanding Section 13340 of the Government Code, the funds in the account are continuously appropriated, without regard to fiscal years, to the Department of General Services for expenditure for purposes of this chapter.

CHAPTER 784

An act to amend Section 68090.7 of, and to amend, repeal, and add Section 26863 of, the Government Code, relating to courts.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 26863 of the Government Code is amended to read:

26863. (a) The board of supervisors of any county may provide for an additional fee of one dollar ($1) for filings in a civil action or proceeding, as specified in Section 68090.7, to defray the cost of automating the county clerk and municipal and justice court recordkeeping system and conversion of the county clerk and municipal and justice court document storage system to micrographics.

(b) The board of supervisors may increase this additional fee to not more than three dollars ($3) if it expends an additional, matching amount from the county general fund, equal to the revenue derived from the increase, exclusively to pay the costs of automating the county clerk and municipal and justice court recordkeeping system or converting the court's document system to micrographics, or both. However, this increase in the additional fee shall not apply to any claim for money damages filed by a person which is within the monetary jurisdiction of small claims court.

(c) Upon completion of the automation and conversion, and payment of the costs therefor, the additional fee shall no longer be imposed.

(d) 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.

SEC. 2. Section 26863 is added to the Government Code, to read:

26863. (a) The board of supervisors of any county may provide for an additional fee of one dollar ($1) for filings in a civil action or proceeding, as specified in Section 68090.7, to defray the cost of

automating the county clerk and municipal and justice court recordkeeping system and conversion of the county clerk and municipal and justice court document storage system to micrographics. Upon completion of the automation and conversion, and payment of the costs therefor, that additional fee shall no longer be imposed.

(b) This section shall become operative on January 1, 1996.

SEC. 3. Section 68090.7 of the Government Code is amended to read:

68090.7. The board of supervisors of any county, as specified in Sections 26863 and 72054, may provide for a fee in addition to, and may exceed, the limits fixed by Sections 26820.4, 26826, 26827, 72055, and 72056 for the following filings in each civil action or proceeding:

(a) The first paper and papers transmitted from another court, as specified in Sections 26820.4 and 72055.

(b) The first paper on behalf of an adverse party, as specified in Sections 26826 and 72056.

(c) A petition or other paper in a probate, guardianship, or conservatorship matter as specified by Section 26827.

The fee shall not apply to adoptions, appeals from an inferior court, or motions.

Except as otherwise specified by law, all fees collected under this section shall be transmitted to the county treasurer and an amount equal thereto shall be used exclusively to pay the costs of automating the county clerk and municipal and justice court recordkeeping system or converting the court's document system to micrographics, or both.

CHAPTER 785

An act to add Section 686.2 to the Penal Code, relating to trials.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 686.2 is added to the Penal Code, to read:

686.2. (a) The court may, after holding a hearing and making the findings set forth in subdivision (b), order the removal of any spectator who is intimidating a witness.

(b) The court may order the removal of a spectator only if it finds all of the following by clear and convincing evidence:

(1) The spectator to be removed is actually engaging in intimidation of the witness.

(2) The witness will not be able to give full, free, and complete testimony unless the spectator is removed.

(3) Removal of the spectator is the only reasonable means of

ensuring that the witness may give full, free, and complete testimony.

(c) Subdivision (a) shall not be used as a means of excluding the press or a defendant from attendance at any portion of a criminal proceeding.

CHAPTER 786

An act to add Sections 6731.3 and 6731.4 to the Business and Professions Code, relating to engineers.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 6731.3 is added to the Business and Professions Code, to read:

6731.3. A registered civil engineer may also practice or offer to practice, either in a public or private capacity, construction project management services, including, but not limited to, construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-benefit analysis, claims review and negotiation, and general management and administration of a construction project.

SEC. 2. Section 6731.4 is added to the Business and Professions Code, to read:

6731.4. If a registered civil engineer provides construction management services pursuant to Section 6731.3, Section 6703.1 shall not limit the responsibility of the engineer for the services actually provided.

SEC. 3. Nothing contained in this act shall eliminate the need for a general contractor, or authorize a registered civil engineer, in performing construction management services, to act as a general contractor.

CHAPTER 787

An act to amend Sections 1277 and 1277.5 of the Unemployment Insurance Code, relating to disability insurance.

[Approved by Governor September 11, 1990 Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 1277 of the Unemployment Insurance Code is amended to read:

1277. Notwithstanding Section 1281, if the base period of a new claim includes wages which were paid prior to the effective date of, and not used in the computation of the award for, a previous valid claim, the new claim shall only be valid if, during the 52-week period beginning with the effective date of the previous valid claim, either of the following applies:

(a) The individual earned or was paid sufficient wages to meet the eligibility requirements of subdivision (a) of Section 1281 and performed some work.

(b) The individual did not receive benefits under this part, and was disabled and was entitled to receive, wage loss benefits under Part 2 (commencing with Section 2601) of this division or under Division 4 (commencing with Section 3201) of the Labor Code, or under any workers' compensation law, employer's liability law, or disability insurance law of any other state or of the federal government.

For the purpose of this section only, the term "wages" includes any and all compensation for personal services performed as an employee for the purpose of meeting the eligibility requirements under subdivision (a) of Section 1281. This section is not applicable to the computation of an award for disability benefits.

SEC. 2. Section 1277.5 of the Unemployment Insurance Code is amended to read:

1277.5. In determining, under Section 1277, whether a new claim is valid, twice the amount which an individual was entitled to receive under Part 2 (commencing with Section 2601) of this division or under Division 4 (commencing with Section 3201) of the Labor Code, or under any workers' compensation law, employer's liability law, or disability insurance law of any other state or of the federal government, during the 52-week period beginning with the effective date of the previous valid claim, shall be considered as wages earned or paid to the individual during that 52-week period for purposes of meeting the eligibility requirements of subdivision (a) of Section 1281. The amounts so included shall not be considered wages for the purpose of computing the weekly benefit amount of the individual under Section 1280 or the maximum amount payable to the individual under Section 1281.

SEC. 3. The amendments to Sections 1277 and 1277.5 of the Unemployment Insurance Code made by this act shall be effective for all claims with an effective date of January 1, 1991, or after.

CHAPTER 788

An act to amend Section 2924e of, and to amend and repeal Section 2963 of, the Civil Code, relating to real property.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990]

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

SECTION 1. Section 2924e of the Civil Code is amended to read:

2924e. (a) The beneficiary or mortgagee of any deed of trust or mortgage on real property either containing one to four residential units or given to secure an original obligation not to exceed three hundred thousand dollars ($300,000) may, with the written consent of the trustor or mortgagor that is either effected through a signed and dated agreement which shall be separate from other loan and security documents or disclosed to the trustor or mortgagor in at least 10-point type, submit a written request by certified mail to the beneficiary or mortgagee of any lien which is senior to the lien of the requester, for written notice of any or all delinquencies of four months or more, in payments of principal or interest on any obligation secured by that senior lien notwithstanding that the loan secured by the lien of the requester is not then in default as to payments of principal or interest.

The request shall be sent to the beneficiary or mortgagee, or agent which it might designate for the purpose of receiving loan payments, at the address specified for the receipt of these payments, if known, or, if not known, at the address shown on the recorded deed of trust or mortgage.

(b) The request for notice shall identify the ownership or security interest of the requester, the date on which the interest of the requester will terminate as evidenced by the maturity date of the note of the trustor or mortgagor in favor of the requester, the name of the trustor or mortgagor and the name of the current owner of the security property if different from the trustor or mortgagor, the street address or other description of the security property, the loan number (if available to the requester) of the loan secured by the senior lien, the name and address to which notice is to be sent, and shall include or be accompanied by the signed written consent of the trustor or mortgagor, and a fee of forty dollars ($40). For obligations secured by residential properties, the request shall remain valid until withdrawn in writing and shall be applicable to all delinquencies as provided in this section, which occur prior to the date on which the

interest of the requester will terminate as specified in the request or the expiration date, as appropriate. For obligations secured by nonresidential properties, the request shall remain valid until withdrawn in writing and shall be applicable to all delinquencies as provided in this section, which occur prior to the date on which the interest of the requester will terminate as specified in the request or the expiration date, as appropriate. The beneficiary or mortgagee of obligations secured by nonresidential properties that have sent five or more notices prior to the expiration of the effective period of the request may charge a fee up to fifteen dollars ($15) for each subsequent notice. A request for notice shall be effective for five years from the mailing of the request or the recording of that request, whichever occurs later, and may be renewed within six months prior to its expiration date by sending the beneficiary or mortgagee, or agent, as the case may be, at the address to which original requests for notice are to be sent, a copy of the earlier request for notice together with a signed statement that the request is renewed and a renewal fee of fifteen dollars ($15). Upon timely submittal of a renewal request for notice, the effectiveness of the original request is continued for five years from the time when it would otherwise have lapsed. Succeeding renewal requests may be submitted in the same manner. The request for notice and renewals thereof shall be recorded in the office of the county recorder of the county in which the security real property is situated. The rights and obligations specified in this section shall inure to the benefit of, or pass to, as the case may be, successors in interest of parties specified in this section. Any successor in interest of a party entitled to notice under this section shall file a request for that notice with any beneficiary or mortgagee of the senior lien and shall pay a processing fee of fifteen dollars ($15). No new written consent shall be required from the trustor or mortgagor.

(c) Unless the delinquency has been cured, within 15 days following the end of four months from any delinquency in payments of principal or interest on any obligation secured by the senior lien which delinquency exists or occurs on or after 10 days from the mailing of the request for notice or the recording of that request, whichever occurs later, the beneficiary or mortgagee shall give written notice to the requester of the fact of any delinquency and the amount thereof.

The notice shall be given by personal service, or by deposit in the mail, first-class postage paid. Following the recording of any notice of default pursuant to Section 2924 with respect to the same delinquency, no notice or further notice shall be required pursuant to this section.

(d) If the beneficiary or mortgagee of any such senior lien fails to give notice to the requester as required in subdivision (c), and a subsequent foreclosure or trustee's sale of the security property occurs, the beneficiary or mortgagee shall be liable to the requester for any monetary damage due to the failure to provide notice within

the time period specified in subdivision (c) which the requester has sustained from the date on which notice should have been given to the earlier of the date on which the notice is given or the date of the recording of the notice of default under Section 2924, and shall also forfeit to the requester the sum of three hundred dollars ($300). A showing by the beneficiary or mortgagee by a preponderance of the evidence that the failure to provide timely notice as required by subdivision (c) resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error shall be a defense to any liability for that failure.

(e) If any beneficiary or mortgagee, or agent which it had designated for the purpose of receiving loan payments, has been succeeded in interest by any other person, any request for notice received pursuant to this section shall be transmitted promptly to that person.

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

(g) Upon satisfaction of an obligation secured by a junior lien with respect to which a notice request was made pursuant to this section, the beneficiary or mortgagee that made the request shall communicate that fact in writing to the senior lienholder to whom the request was made. The communication shall specify that provision of notice pursuant to the prior request under this section is no longer required.

SEC. 2. Section 2963 of the Civil Code, as amended by Section 4 of Chapter 1331 of the Statutes of 1984, is amended to read:

2963. The disclosures required to both purchaser and vendor by this article are:

(a) An identification of the note or other credit documents or security documents and of the property which is the security for the transaction.

(b) A description of the terms of the promissory note or other credit documents or a copy of the note or other credit documents.

(c) Insofar as available, the principal terms and conditions of each recorded encumbrance which constitutes a lien upon the property which is or will be senior to the financing being arranged, including the original balance, the current balance, the periodic payment, any balloon payment, the interest rate (and any provisions with respect to variations in the interest rate), the maturity date, and whether or not there is any current default in payment on that encumbrance.

(d) A warning that, if refinancing would be required as a result of lack of full amortization under the terms of any existing or proposed loans, such refinancing might be difficult or impossible in the conventional mortgage marketplace.

(e) If negative amortization is possible as a result of any variable or adjustable rate financing being arranged, a clear disclosure of this fact and an explanation of its potential effect.

(f) In the event that the financing involves an all inclusive trust

deed, the disclosure shall indicate whether the credit or security documents specify who is liable for payment or responsible for defense in the case of an attempted acceleration by a lender or other obligee under a prior encumbrance, and whether or not the credit or security documents specify the responsibilities and rights of the parties in the event of a loan prepayment respecting a prior encumbrance which may result in a requirement for refinancing, a prepayment penalty, or a prepayment discount and, if such specification occurs, a recital of the provisions which apply.

(g) If the financing being arranged or any of the financing represented by a prior encumbrance could result in a balloon payment, or in a right in the lender or other obligee under such financing to require a prepayment of the principal balance at or after a stipulated date, or upon the occurrence of a stipulated event, a disclosure of the date and amount of any balloon payment or the amount which would be due upon the exercise of such right by the lender or obligee, and a statement that there is no assurance that new financing or loan extension will be available at the time of such occurrence.

(h) If the financing being arranged involves an all inclusive trust deed or real property sales contract, a disclosure of the party to whom payments will be made and who will be responsible for remitting these funds to payees under prior encumbrances and vendors under this transaction and a warning that, if that person is not a neutral third party, the parties may wish to agree to have a neutral third party designated for these purposes.

(i) A disclosure on the identity, occupation, employment, income, and credit data about the prospective purchaser, as represented to the arranger by the prospective purchaser; or, specifically, that no representation as to the credit-worthiness of the specific prospective purchaser is made by the arranger. A warning should also be expressed that Section 580b of the Code of Civil Procedure may limit any recovery by the vendor to the net proceeds of the sale of the security property in the event of foreclosure.

(j) A statement that loss payee clauses have been added to property insurance protecting the vendor, or that instructions have been or will be directed to the escrowholder, if any, in the transaction or the appropriate insurance carriers for addition of such loss payee clauses, or a statement that, if such provisions have not been made, that the vendor should consider protecting himself or herself by securing such clauses.

(k) A statement that a request for notice of default under Section 2924b has been recorded, or that, if it has not been recorded, the vendor should consider recording a request for notice of default.

(*l*) That a policy of title insurance has been obtained or will be obtained and be furnished to the vendor and purchaser, insuring the respective interests of the vendor and purchaser, or that the vendor and purchaser individually should consider obtaining a policy of title insurance.

(m) That a tax service has been arranged to report to the vendor whether property taxes have been paid on the property, and who will be responsible for the continued retention and compensation of tax service; or that the vendor should otherwise assure for himself or herself that the taxes on the property have been paid.

(n) A disclosure whether the security documents on the financing being arranged have been or will be recorded pursuant to Section 27280 of the Government Code, or a statement that the security of the vendor may be subject to intervening liens or judgments which may occur after the note is executed and before any resort to security occurs if the security documents are not recorded.

(o) If the purchaser is to receive any cash from the proceeds of the transaction, a statement of that fact, the amount, the source of the funds, and the purpose of the disbursement as represented by the purchaser.

(p) A statement that a request for notice of delinquency under Section 2924e has been made, or that, if it has not been made, the vendor should consider making a request for a notice of delinquency.

SEC. 3. Section 2963 of the Civil Code, as amended by Section 4 of Chapter 1217 of the Statutes of 1983, is repealed.

CHAPTER 789

An act to amend Sections 2020, 2150, 2150.4, and 3005.91 of, to add Section 2150.5 to, and to repeal and add Sections 2150.1 and 2150.2 of, the Fish and Game Code, relating to animals, and making an appropriation therefor.

[Approved by Governor September 11, 1990. Filed with Secretary of State September 13, 1990.]

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

SECTION 1. Section 2020 of the Fish and Game Code is amended to read:

2020. (a) The department may reimburse eligible local entities, pursuant to a memorandum of understanding entered into under this section, for costs incurred by the eligible local entities in the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118, by any person.

(b) The director may enter into memorandums of understanding with eligible local entities for the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118, or a cat specified in Section 3005.9.

(c) For purposes of this division, "eligible local entity" means a county, local animal control officer, local humane society official, an

educational institution, or trained private individual which enters into a memorandum of understanding with the director pursuant to this section.

SEC. 2. Section 2150 of the Fish and Game Code is amended to read:

2150. (a) The department or an eligible local entity, in cooperation with the Department of Food and Agriculture, may, upon application, issue a written permit to import into, possess, or transport within this state any wild animal enumerated in, or designated pursuant to, Section 2118, upon a determination that the animal is not detrimental or that no damage or detriment can be caused to agriculture, native wildlife, the public health or safety, or the welfare of the animal, as a result of the importation, transportation, or possession.

A permit shall be issued only upon application and payment of a nonrefundable application fee in an amount determined by the department pursuant to Section 2150.2. Application forms shall be provided by the department, or an eligible local entity, and shall be designed to ascertain the applicant's ability to properly care for the wild animal or animals the applicant seeks to import, transport, or possess. Proper care includes providing adequate food, shelter, and veterinary care, and other requirements the commission may designate.

(b) The commission shall revoke or deny a permit if it finds that a permittee or applicant has failed to meet, or is unable to meet, the requirements for importing, transporting, possessing, or confining any wild animal as established pursuant to Section 2120.

(c) A zoo is exempt from any permit requirement pursuant to this chapter except for animals whose importation, transportation, or possession is determined by the department, in cooperation with the Department of Food and Agriculture, to be detrimental or cause damage to agriculture, native wildlife, or the public health or safety. For purposes of this section, "zoo" means any organization which is accredited as meeting the standards and requirements of the American Association of Zoological Parks and Aquariums (AAZPA). Any California organization which is not accredited by the AAZPA may apply to the department for a waiver of specified permit requirements of this chapter. The department may grant or deny the request for a waiver for justified reasons. Foreign zoos outside this state are not subject to the permit requirements of this chapter beyond those specific permit requirements affecting California zoos or organizations with which they are collaborating. Any organization may appeal the determination of the department to the commission.

(d) An exhibitor licensed by the United States Department of Agriculture or a dealer who is so licensed who buys any animal specified in subdivision (c) from a zoo within the state, may sell or transfer it only to a private individual who has a permit issued pursuant to this section prior to the receipt of the animal or to a public or private organization which has a permit issued pursuant to

this section prior to the receipt of the animal. The exhibitor or dealer who sells or transfers such an animal shall pay a fee pursuant to Section 2150.2 to the department.

(e) Any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research is exempt from any permit requirement pursuant to this chapter except for animals whose importation, transportation, or possession is determined by the department, in cooperation with the Department of Food and Agriculture, to be detrimental or cause damage to agriculture, native wildlife, or the public health or safety.

SEC. 3. Section 2150.1 of the Fish and Game Code is repealed.

SEC. 4. Section 2150.1 is added to the Fish and Game Code, to read:

2150.1. Fees collected pursuant to this chapter for permits, permit applications, and facility inspections shall be deposited in the Fish and Game Preservation Fund. The department shall annually identify the amount collected for each type of permit, permit application, or inspection for which a fee is collected.

SEC. 5. Section 2150.2 of the Fish and Game Code is repealed.

SEC. 6. Section 2150.2 is added to the Fish and Game Code, to read:

2150.2. The department shall establish fees for permits, permit applications, and facility inspections in amounts sufficient to cover the costs of administering, implementing, and enforcing this chapter.

SEC. 7. Section 2150.4 of the Fish and Game Code is amended to read:

2150.4. (a) Consistent with Section 3005.91, the department or an eligible local entity shall inspect the wild animal facilities, as determined by the director's advisory committee, of each person holding a permit issued pursuant to Section 2150 authorizing the possession of a wild animal.

(b) In addition to the inspections specified in subdivision (a), the department or an eligible local entity, pursuant to the regulations of the commission, may inspect the facilities and care provided for the wild animal of any person holding a permit issued pursuant to Section 2150 or the facilities and care provided for any wild animal in any zoo, for the purpose of determining whether the animal is being cared for in accordance with all applicable statutes and regulations. The department or the eligible local entity, whichever conducts the inspection, shall collect an inspection fee, in an amount determined by the department pursuant to Section 2150.2. If the eligible local agency conducts the inspection, it shall transmit the fee to the department.

SEC. 8. Section 2150.5 is added to the Fish and Game Code, to read:

2150.5. (a) The department shall, on or before May 1, 1991, establish, and thereafter keep current, written policies and procedures to implement the animal housing, possession,

importation, and transportation requirements pursuant to this chapter. The department shall provide copies of the policies and procedures to interested parties upon request.

(b) The policies and procedures shall include, but not be limited to, criteria for all of the following:

(1) Receiving, processing, and issuing a permit or permit application, and conducting inspection activities.

(2) Contracting out inspection activities.

(3) Responding to public reports and complaints.

(4) Notification of the revocation, termination, or denial of permits, and related appeals.

(c) The department shall make proposed policies and procedures available to interested parties before their implementation. The department may receive and incorporate comments and recommendations on the policies and procedures from interested parties.

SEC. 9. Section 3005.91 of the Fish and Game Code is amended to read:

3005.91. The department or an eligible local entity, pursuant to regulations of the commission, shall inspect the cat facilities of each person holding a permit issued pursuant to regulations of the commission authorizing the possession of a cat, other than a house cat. These inspections shall be to ensure that the animal is being held in conformity with law. The department or an eligible local entity shall collect an inspection fee in an amount determined by the department pursuant to Section 2150.2. The fee shall be paid over to the department.

SEC. 10. 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.